

# Federal Government Announces Details of Winding Down of CERB Program

**Date :** August 28, 2020

On August 20, 2020, the Federal government released the details of the anticipated winding down of the temporary Canada Emergency Response Benefit (or “CERB”) program. The CERB program, which we have covered in depth in earlier [Focus Alerts](#), was launched on April 6 in order to provide a taxable benefit of \$2,000 per month for workers who stopped working for reasons related to COVID-19 and was most recently extended for a maximum duration of 28 weeks.

That being said, workers whose employment continues to be impacted by the pandemic and who continue to require financial support beyond the end of September will not be left in the lurch; rather, depending on their circumstances, it is expected that they will be able to either transition onto Employment Insurance (“EI”) or onto one of three new proposed temporary recovery benefits.

## Employment Insurance

Not only will workers who already qualify for EI be permitted to transition onto the program starting on September 27, 2020, but the program’s eligibility requirements and administrative criteria will also be expanded and provided with greater flexibility in order to accommodate an additional 400,000 people who would not otherwise have qualified. In particular, the following notable changes will temporarily be implemented as part of the Federal government’s continuing response to COVID-19 and the ongoing repercussions of the pandemic on employment.

### a) One-Time Hours Credit

Under normal circumstances, access to EI benefits – both regular and special – is determined based on the number of insurable hours the claimant has worked in the year prior to his or her application, or since their last claim. This is referred to as the “qualifying period”. However, in recognition that labour markets remain uncertain and may for some time, claimants will be provided with a one-time insurable hours credit, which will temporarily remain available for a period of one year for all new EI claims, as follows:

- For EI claimants in receipt of regular benefits (job loss), the credit will be of 300 insurable hours; and
- For EI claimants in receipt of special benefits (e.g., maternity, parental, sickness,

compassionate care, and family caregiver), the credit will be of 480 insurable hours.

This means that in all cases, claimants will in fact only require 120 hours of insurable employment in order to be eligible for benefits.

In the particular circumstances of claimants who had intended to transition early from the CERB to EI special benefits but were unable to do because they had not accumulated sufficient hours of insurable employment, the one-time hours credit will be made retroactive to March 15, 2020 and the qualifying period will also be extended.

### **b) Minimum Benefit Rate**

Under ordinary circumstances, EI benefits rates are usually calculated based on a worker's average weekly earnings in the period leading up to their EI claim. However, as of September 27, 2020, in recognition that the pandemic may have had a negative impact on a worker's weekly earnings and thus on their benefit rate, new EI claimants will be eligible for a minimum taxable benefit rate of \$400 per week, or \$240 per week for extended parental benefits, if this is higher than what their entitlement would otherwise be.

In addition to mitigating any potential negative financial impact caused by the pandemic, the implementation of a minimum benefit rate will also have the effect of better aligning the amount received by EI claimants with the amount received by the proposed new Canada Recovery Benefit for claimants who have also stopped working for reasons related to COVID-19 but do not otherwise qualify for EI (as will be detailed below).

### **c) Minimum Unemployment Rate**

Effective August 9, 2020, a minimum unemployment rate of 13.1% will be applied to all EI economic regions across Canada and will temporarily remain in place for a period of one year. This means that workers that are transitioning from the CERB to EI and who live in EI economic regions with an unemployment rate lower than 13.1% will have their benefits calculated on the basis of the minimum rate, whereas workers who live in EI economic regions with an unemployment rate higher than 13.1% will have their benefits calculated using the actual rate for that region.

Practically, the implementation of a minimum unemployment rate will have the effect of lowering the hours required by EI claimants in order to qualify for benefits (i.e., setting a uniform eligibility requirement for EI regular benefits of 420 hours of insurable employment), providing a minimum entitlement of 26 weeks of regular benefits, and setting at 14 the number of best weeks of earnings

used in the calculation of the weekly benefit rate. Combined with the one-time hours credit detailed above, this means that workers will be able to qualify with as few as 120 hours of insurable employment.

#### **d) Freeze of EI Premium Rates**

So as to avoid placing an immediate increased financial burden on workers and employers as a result of the increased cost to the EI program due to the pandemic, EI premium rates will be frozen at 2020 rates for a period of two years. This means that premium rates will remain at \$1.58 per \$100 of insurable earnings or, for employers who pay 1.4 times the employee rate, \$2.21 per \$100 of insurable earnings.

#### **The EI Transition Process**

The practicalities of the EI transition process will vary depending on how the individual CERB claimant initially applied for the benefit. For those who applied for and received the CERB through Service Canada, they will automatically be transitioned to the EI program as soon as they have received their maximum CERB entitlement, assuming they are EI eligible and require ongoing income support. For those who applied for and received the CERB through the Canada Revenue Agency (“CRA”), they will be required to apply to EI through Service Canada after September 26, 2020.

#### **Proposed Temporary Recovery Benefits**

Because not all workers who are currently benefitting from the CERB will qualify for EI, even under the expanded and more flexible program – for example, self-employed and “gig” industry workers – the Federal government has announced that it intends to introduce legislation that would support the creation and implementation of three new temporary recovery benefits that would become available as of September 27, 2020 and remain available for a period of one year:

##### **a) Canada Recovery Benefit (“CRB”)**

As currently proposed, the CRB would provide \$400 per week for a maximum of 26 weeks to workers who are self-employed or are not eligible for EI, and who require ongoing income support despite being available and looking for work. The CRB would be available to residents in Canada who:

- Are at least 15 years old and have a valid Social Insurance Number (“SIN”);
- Have stopped working due to the COVID-19 pandemic and are available and looking for work OR are working and have had a reduction in their employment/self-employment income for reasons related to COVID-19;
- Are not eligible for EI;
- Had employment and/or self-employment income of at least \$5,000 in 2019 or in 2020; and
- Have not quit their job voluntarily.

In order to receive the CRB, workers would be required to apply after every 2-week period for which they claim the benefit and attest that they continue to meet the eligibility requirements. Furthermore, in order to remain eligible for the CRB, workers would be required to look for and accept work when it is reasonable to do so.

So as to encourage CRB claimants’ return to work, workers will be able to earn income from employment or self-employment while they collect the benefit as long as they continue to meet all other eligibility requirements. However, in the event that the worker ultimately earns an annual net income greater than \$38,000 exclusive of the CRB, they will be required to repay all or a portion of the benefit through their personal income tax return. The rate of repayment of the benefit in such cases will be \$0.50 for each dollar of annual net income above \$38,000 in the calendar year, up to a maximum of 100% of the amount of benefit received by the claimant.

## **b) Canada Recovery Sickness Benefit (“CRSB”)**

As currently proposed, the CRSB – which is intended to fulfill the Federal government’s commitment to provide up to two weeks of paid sick leave in the context of COVID-19 as part of the Safe Restart Agreement with the provinces and territories – would provide \$500 per week for a maximum of two weeks to workers who are sick or must self-isolate for reasons related to COVID-19. The CRSB would be available to:

- Residents in Canada who are at least 15 years of age and have a valid SIN;
- Workers employed or self-employed at the time of the application; and
- Workers who earned at least \$5,000 in 2019 or 2020.

In order to receive the CRSB, workers would not be required to provide a medical certificate, but would be required to have missed a minimum of sixty percent of their scheduled work in the week for which they claim the benefit. Workers would be required to apply after every one-week period for which they claim the benefit and to attest that they continue to meet the eligibility requirements. Importantly, they would not be permitted to claim any other paid sick leave for the same benefit period.

### **c) Canada Recovery Caregiving Benefit (“CRCB”)**

As currently proposed, the CRCB would provide \$500 per week for a maximum of 26 weeks per household for eligible Canadians who are unable to work because they must provide care for one or more specified individuals. Specifically, the CRCB would be available to individuals who:

- Reside in Canada;
- Are at least 15 years of age on the first day of the period for which they apply for the benefit;
- Have a valid SIN;
- Are employed or self-employed on the day immediately preceding the period for which the application is made;
- Have earned at least \$5,000 in 2019 or in 2020;
- Have been unable to work for at least 60% of their normally scheduled work within a given week because of one of the following conditions:
  - They must take care of a child who is under 12 years of age on the first day of the period for which the benefit is claimed:
    - Because their school or daycare is closed or operates under an alternative schedule for reasons related to the COVID-19 pandemic;
    - Who cannot attend school or daycare under the advice of a medical professional due to being at high risk if they contract COVID-19; or
    - Because the caregiver who usually provides care is not available for reasons related to the COVID-19 pandemic; or
  - They must provide care to a family member with a disability or a dependent:
    - Because their day program or care facility is closed or operates under an alternative schedule for reasons related to COVID-19;
    - Who cannot attend their day program or care facility under the advice of a medical professional due to being at high risk if they contract COVID-19; or
    - Because the caregiver who usually provides care is not available for reasons related to the COVID-19 pandemic.
  - Are not in receipt of paid leave from an employer in respect of the same week; and
  - Are not in receipt of the CERB, the EI Emergency Response Benefit (“ERB”), the CRB, the CRSB, short-term disability benefits, workers’ compensation benefits, or any EI benefits or Quebec Parental Insurance Plan (or “QPIP”) benefits in respect of the same week.

In order to receive the CRCB, workers would be required to apply after the period for which they claim the benefit and attest that they meet the eligibility requirements. As this benefit applies to households rather than individual claimants, two members of the same household would not be permitted to be in receipt of the CRCB at the same time.

## **The Temporary Recovery Benefit Application Process**

Once approved, the temporary recovery benefits programs would be applied for through and administered by the Canada Revenue Agency. Details on the application process itself are expected to be released in the coming weeks.

## **In Our View**

Although the above article contains the most up-to-date publicly available information on the Federal government's plan for the winding down of the CERB program, elements of the plan have not yet been legislated and remain subject to potential change. Emond Harnden will continue to monitor for the release of any additional details on, as well as for any new developments regarding, the options that will become available to workers who exhaust their entitlement under the CERB but continue to require income support.

For more information on your rights and obligations as an employer dealing with COVID-19 or related matters, please contact [Porter Heffernan](#) at [613-940-2764](#) and [Colleen Dunlop](#) at [613-940-2734](#).