

## Canada Emergency Response Benefit (CERB) – Amended

2020-04-06

The *Canada Emergency Response Benefit Act (CERBA)* was introduced by the federal government on March 25, 2020 to authorize an **income support payment** to workers who suffer a loss of earnings for reasons related to COVID-19.

The new **Canada Emergency Response Benefit (CERB)** replaces the previously announced Emergency Care Benefit and Emergency Support Benefit.

The following are the key features of this benefit as we understand it as of the date of this release. Please note that regulations will be filed in the future that may provide further details and clarification. We have identified in this document certain items that may be subject to adjustment through such regulations.

### Amount and duration

- \$2,000 per 4-week period (taxable amount but no withholding at source)
  - This benefit amount was announced in the federal news release of March 25, 2020.
  - The *CERBA* provides that the payment for a week is the amount fixed by regulation.
  - The details of the benefit will be set out in regulations. For example, details on the amount and/or modulations could be provided for in the regulations.
- Targets the period from March 15, 2020 to October 3, 2020.
- Maximum of 16 weeks or other number of weeks prescribed by regulation.

### Eligibility<sup>1</sup>

Must meet all of the following conditions:

1. A **worker** aged 15 years or older who is a resident of Canada;
2. whose income for 2019 or for the 12 months preceding the application is **at least \$5,000** (or such other amount as may be fixed by regulation) and comes from either:
  - employment
  - self-employment<sup>2</sup>
  - pregnancy and parental benefits under the *Employment Insurance Act*; and
  - allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption;

<sup>1</sup> “The CERB would apply to wage earners, as well as contract workers and self-employed individuals who would not otherwise be eligible for Employment Insurance.” (see the March 25, 2020 federal Minister of Finance’s [news release](#)).

<sup>2</sup> For additional information on the eligibility of an active shareholder who would only pay him/herself dividends as remuneration, see the section entitled: “Remuneration in the form of Dividends” below.



3. who, whether employed or self-employed, has ceased working **for reasons related to COVID-19<sup>3</sup> for at least 14 consecutive days in a 4-week period** for which a benefit is claimed;
4. not receiving **for these 14 consecutive days**:
  - **income** from employment or self-employment (may be modified by regulation);
  - benefits as defined in subsection 2(1) of the *Employment Insurance Act* (covers several types of benefits, for example regular, pregnancy, etc.);
  - allowances, money or other benefits paid to the worker under a provincial plan because of pregnancy or in respect of the care by the worker of one or more of their new-born children or one or more children placed with them for the purpose of adoption;
  - any other income that is prescribed by regulation (no regulation has been tabled to date).

Provided it is allowed in a province or territory, a worker may also receive provincial or territorial support payments at the same time he/she receives the CERB<sup>4</sup>.

To be eligible for the CERB, a worker must reside in Canada and have a valid Social Insurance Number.

Workers who are not Canadian citizens or permanent residents – including temporary foreign workers and international students – may be eligible to receive the Benefit if they meet the other eligibility requirements<sup>5</sup>.

The income does not have to be earned in Canada, but the worker must reside in Canada<sup>6</sup>.

Note that the *CERBA* provides that an employed worker who **voluntarily** quits his/her employment will not be eligible.

### **Submitting an application<sup>7</sup>**

Applications for the CERB will begin the week of April 6, 2020.

There are two ways to apply:

- Online with CRA “My Account”
- Over the phone with an automated phone service

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<sup>3</sup> Examples from the March 25, 2020 federal Minister of Finance’s [news release](#): job loss, sickness, quarantined, taking care of someone who is sick with COVID-19, working parents who must stay home without pay to care for children who are sick or at home because of school and daycare closures, persons who are employed but are not receiving income because of disruptions to their work situation due to COVID-19.

<sup>4</sup> Refer to the questions published by the Government of Canada Q&A “Can I have other income while receiving the Canada Emergency Response Benefit”: <https://www.canada.ca/en/services/benefits/ei/cerb-application/questions.html>.

<sup>5</sup> Canadian Government Q&A under « Can you receive the Canadian Emergency Response Benefit if you are not a citizen or a permanent resident?».

<sup>6</sup> Canadian Government Q&A under “Does the minimum income of \$5,000 have to be earned in Canada?».

<sup>7</sup> For further information, please refer to CRA web site “Apply for CERB with CRA”: <https://www.canada.ca/en/revenue-agency/services/benefits/apply-for-cerb-with-cra.html>.



- To avoid any delay, it is advisable to register now, with CRA “*My Account*” and /or to update the information.
- Payments should be received
  - If the benefit is paid by direct deposit, within 3 business days from the day the application is submitted;
  - If the benefit is paid by cheque, within 10 business days from the day the application is submitted.
- Each payment of the CERB covers a 4-week period, beginning March 15, 2020. A single payment is provided for the 4-week period. If the situation continues, applications can be submitted for additional 4-week periods, up to a maximum of 16 weeks (4 periods in total).
- The *CERBA* provides that no application may be filed after December 2, 2020.

### **Provision of information and documents**

In order to ensure compliance or prevent non-compliance of the *CERBA*, information or documents may be required from an applicant within a reasonable time period.

### **Return of erroneous payment or overpayment and prescription period**

If a person has received a payment to which he/she is not entitled, or an amount in excess of the amount of such a payment to which he/she is entitled, he/she must repay the amount of the payment or the excess amount, as the case may be, as soon as is feasible.

**Please note:** the prescription period for any action or proceedings to recover money under the *CERBA* is six years.

### **Unseizability**

The payment cannot be charged for the purposes of certain measures and is exempt from the application of the rules of law relating to bankruptcy or insolvency.

### **Coordination with the Employment Insurance Program (EI)**

- Canadians who are already receiving EI regular and sickness benefits as of today would continue to receive their benefits and should not apply to the CERB<sup>8</sup>.
- If their EI benefits end before October 3, 2020, individuals could apply for the CERB once their EI benefits cease, if they are unable to return to work due to COVID-19.

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<sup>8</sup> Canadian Government Q&A under: “If I am already receiving Employment Insurance regular benefits, should I reapply for the CERB?”.



- Canadians who have already applied for EI **and whose application has not yet been processed** would not need to reapply. If the worker became eligible for Employment Insurance prior to March 15, the claim will be processed under the pre-existing Employment Insurance rules. If he/she became eligible for EI regular or sickness benefits on March 15 or later, the claim will be automatically processed through the Canada Emergency Response Benefit<sup>9</sup>. Hence, a worker who stopped working because of COVID-19, should apply for the CERB, whether or not he/she is eligible for Employment Insurance<sup>10</sup>. Starting April 6, 2020, there will be a single portal to assist with the application process. Until then, Canadians who are eligible for Employment Insurance and who have lost their job can continue to apply for Employment Insurance.

Canadians who are eligible for EI regular and sickness benefits would still be able to access their normal EI benefits, if still unemployed, after the 16-week period covered by the CERB.

- The Government of Canada's Questions and Answers section provides further information on coordination with the EI program.

### Remuneration in the form of Dividends

According to current law, and considering that no regulations have been tabled, it was not clear whether an active shareholder who would pay him/herself primarily in dividends as remuneration was eligible for the CERB. The Government of Canada's Q&A was, however, amended on April 6 and now contains a question<sup>11</sup> on this topic, namely:

*"If I am in receipt of dividends am I eligible for the Canada Emergency Response Benefit?"*

*"Yes, as long as the dividends are non-eligible dividends (generally, those paid out of corporate income taxed at the small business rate).*

*An individual could count this income towards the \$5,000 income requirement to be eligible for CERB."*

The dividends that would qualify are, therefore, non-eligible or ordinary dividends, including dividends received from corporate business income subject to the small business deduction (SBD).

Although the government has added this Q&A, several sub-questions on this subject remain and it would, therefore, be necessary to review the regulations that are expected to be adopted shortly. For example, would an individual receiving a dividend through a family trust be eligible to the CERB, if he/she otherwise meets all the other conditions?

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<sup>9</sup> Canadian Government Q&A under "I have applied for EI regular sickness benefits, but my claim hasn't been processed yet, do I need to apply for the CERB?"

<sup>10</sup> Canadian Government Q&A under "How do I know whether to apply for EI Benefits or the CERB?"

<sup>11</sup> Canadian Government Q&A under « If I am in receipt of dividends and I eligible for the Canada Emergency Response Benefit?"

Link to the news release:

<https://www.canada.ca/en/department-finance/news/2020/03/introduces-canada-emergency-response-benefit-to-help-workers-and-businesses.html>

Link to the Canada Government “Apply for Canada Emergency Responses Benefit (CERB) with CRA”:

<https://www.canada.ca/en/revenue-agency/services/benefits/apply-for-cerb-with-cra.html>

Link to the Questions and Answers of the Government of Canada

<https://www.canada.ca/en/services/benefits/ei/cerb-application/questions.html>

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