

The Canada Emergency Wage Subsidy: What All Employers Need to Know

April 2, 2020

By Daniel Wong, Megan Mah, Sean Foran,

On April 1, 2020, Finance Minister Bill Morneau provided details regarding the federal government's Canada Emergency Wage Subsidy that was initially announced on March 27, 2020.

Consistent with promises made by the government in recent days, the wage subsidy available to eligible business affected by COVID-19 will be increased significantly. The government had previously announced a Temporary Wage Subsidy for Employers of 10%, capped at \$1,375 per employee and \$25,000 per employer. The new Canada Emergency Wage Subsidy promises wage subsidies of up to 75% on the first \$58,700 of an employee's wage, back-dated to March 15, 2020, with no per-employer maximum.

The scope of employers eligible for the Canada Emergency Wage Subsidy has also significantly expanded. Whereas before the subsidy was only available to non-profits, charities, and certain Canadian-Controlled Private Corporations, the Canada Emergency Wage Subsidy will be available to *any* business that is not publicly-funded and has experienced a decrease in gross revenues of at least 30% as compared to the same month in 2019. The eligibility of employers established after February 2019 will be determined by comparing their monthly revenues to a reasonable benchmark. Businesses will be required to attest to this decline in revenue as part of an online application for the subsidy, which Minister Morneau has said will be ready in three to six weeks. It should be noted that employers who do not qualify for the Canada Emergency Wage Subsidy may still qualify for, and avail themselves of the Temporary Wage Subsidy for Employers, and employers that qualify for both subsidies will have their Canada Emergency Wage Subsidy reduced by the amount paid under the Temporary Wage Subsidy for Employers in the same period. The Canada Emergency Wage Subsidy is initially planned to expire after three months. Employers will be required to reapply for the subsidy on a monthly basis and in doing so will have to show again that its revenues are 30% less than the same month in 2019.

Prime Minister Trudeau and Finance Minister Morneau have both provided stern warnings to employers that this program is not to be "gamed" or taken advantage of; failing which there will be serious consequences. Employers will be required to repay amounts paid under the Canada Emergency Wage Subsidy if it is subsequently determined that they did not meet eligibility requirements, and the government is contemplating the creation of new offences pertaining to the provision of false or misleading information to obtain access to the subsidy.

Finally, employers will not be able to claim the Canada Emergency Wage Subsidy in respect of remuneration paid to an employee in a week that falls within a four-week period for which the employee is eligible for the Canadian Emergency Response Benefit.

Further details regarding the Canada Emergency Wage Subsidy application procedure, the definition of revenue applicable to non-profits and charities for the purposes of determining eligibility, and other aspects of the subsidy are expected in the coming days. Prime Minister Trudeau has also indicated that he will recall Parliament to pass new legislation to provide for the Canada Emergency Wage Subsidy and other emergency aid measures.

WeirFoulds' employment law group is monitoring these developments and will be providing updates as the COVID-19 situation progresses. For more information on how to respond to COVID-19 in your workplace or organization, please contact one of our authors.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

For more information or inquiries:



Daniel Wong

Toronto
416.947.5042

Email:
dwong@weirfoulds.com

Daniel Wong is Chair of the Firm's Employment & Labour Practice Group with a practice that is focused on employment and labour relations.



Megan Mah

Toronto
416.947.5098

Email:
mmah@weirfoulds.com

Megan Mah has a diverse practice that focuses on human rights, employment, civil litigation, administrative and constitutional law.



Sean Foran

Toronto
416.947.5019

Email:
sforan@weirfoulds.com

Sean Foran is a leading expropriation lawyer, with extensive experience as counsel in large-scale infrastructure projects. Sean also practises real-estate, employment, business and government litigation.

Toronto

Email:

WeirFoulds^{LLP}

www.weirfoulds.com

Toronto Office

4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Tel: 416.365.1110
Fax: 416.365.1876

Oakville Office

1320 Cornwall Rd., Suite 201
Oakville, ON L6J 7W5

Tel: 416.365.1110
Fax: 905.829.2035