



## LEGISLATIVE SUMMARY

# BILL C-17: AN ACT RESPECTING ADDITIONAL COVID-19 MEASURES

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*Legislative Summary of Bill C-17*  
(Legislative Summary)

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# LEGISLATIVE SUMMARY OF BILL C-17: AN ACT RESPECTING ADDITIONAL COVID-19 MEASURES

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## 1 BACKGROUND

Bill C-17, An Act respecting additional COVID-19 measures,<sup>1</sup> was introduced in the House of Commons on 10 June 2020 by the Honourable Carla Qualtrough, Minister of Employment, Workforce Development and Disability Inclusion, and given first reading the same day.

Unlike other pieces of legislation introduced during the coronavirus disease (COVID-19) pandemic, the first reading version of the bill failed to get the unanimous consent necessary for it to be expedited through all the stages of the legislative process.<sup>2</sup>

On 20 July 2020, the government introduced Bill C-20, An Act respecting further COVID-19 measures,<sup>3</sup> containing some of the same provisions as those outlined in Bill C-17.<sup>4</sup> Bill C-20 received Royal Assent on 27 July 2020. Bill C-17, however, died on the *Order Paper* when the first session of the 43<sup>rd</sup> Parliament was prorogued on 18 August 2020.

As indicated by its title, the purpose of Bill C-17 is to implement additional measures in response to the COVID-19 pandemic.

Bill C-17 has four parts, comprising 16 clauses, and a schedule:

- Part 1 amends the *Income Tax Act*<sup>5</sup> (ITA) to enact changes to the eligibility criteria for the Canada Emergency Wage Subsidy (CEWS), particularly with respect to amalgamated corporations, the baseline remuneration period, trusts and the use of payroll service providers.
- Part 2 enacts the *Time Limits and Other Periods Act (COVID-19)* (TLOPA), which suspends certain time limits in relation to court proceedings. It also allows ministers to temporarily suspend or extend time limits and extend other periods in relation to specified Acts and regulations to respond to the exceptional circumstances of the COVID-19 pandemic.
- Part 3 amends the ITA and the *Children's Special Allowances Act* (CSA Act)<sup>6</sup> to allow for the disclosure of information for the purpose of a one-time payment to persons with disabilities.

- Part 4 amends the *Canada Emergency Response Benefit Act* (CERBA)<sup>7</sup> to, among other changes,
  - modify the number of weeks in relation to which a worker may apply for an income support payment under the Act;
  - provide that a worker is not eligible for an income support payment if they do not return to work when it is reasonable to do so;
  - allow for a review of decisions made under the Act; and
  - introduce enforcement-related provisions.

This Legislative Summary provides a brief description of the main measures proposed in the bill by summarizing the substance of each part.

## 2 DESCRIPTION AND ANALYSIS

### 2.1 PART 1: AMENDMENTS TO THE *INCOME TAX ACT* REGARDING THE CANADA EMERGENCY WAGE SUBSIDY (CLAUSES 1 TO 3)

#### 2.1.1 Revenue for Amalgamated Corporations (Clause 1)

Clause 1 of the bill amends section 87(2) of the ITA to allow a corporation formed from an amalgamation of two or more corporations to calculate its revenue for the purposes of qualifying for the CEWS by using the combined revenues of the formerly separate corporations (new section 87(2)(g.6)). The amalgamated corporation will be ineligible from using this calculation if the main purpose for the amalgamation was to qualify for the CEWS.

#### 2.1.2 Expanded Baseline Remuneration Period (Clause 2)

The CEWS baseline remuneration period is the period – at the time Bill C-17 was introduced, between 1 January 2020 and 15 March 2020 – in which an employee’s average salary is calculated for the purpose of determining the amount of the subsidy for which they are eligible. Clause 2(1) of the bill amends section 125.7(1) of the ITA to create a second baseline remuneration period for the CEWS meant to capture seasonal workers and other employees who did not have remuneration between January 2020 and March 2020. This change will allow employers to choose between the existing baseline remuneration period or the period from 1 March 2019 to 31 May 2019. Clause 2(1) also allows additional baseline remuneration periods to be added by regulation.



### 2.1.3 Eligibility of Trusts (Clause 2)

With respect to the CEWS, clause 2(2) of the bill amends the definition of “eligible entity” set out in section 125.7(1) of the ITA in order to limit the trusts that qualify for the subsidy to:

- a trust that is not a public institution and is not exempt from tax under Part I of the ITA;
- a trust that is not a public institution and is exempt from tax under Part I of the ITA because it is a registered charity or is one of the other types of eligible entities; or
- a trust that is a public institution if it is a prescribed organization.<sup>8</sup>

### 2.1.4 Payroll Service Providers (Clause 2)

Under existing legislation, a condition for receiving the CEWS is to have a payroll account registered with the Canada Revenue Agency (CRA). Employers who use a payroll service provider to manage their employee payrolls may be ineligible for the CEWS because their payroll accounts are held by the payroll service provider rather than the employer.

Clause 2(3) of the bill amends the definition of “qualifying entity” with respect to the CEWS in section 125.7(1) of the ITA to include an entity whose payroll for its employees is administered by a payroll service provider that is registered with a CRA payroll account to remit source deductions for the entity’s employees.

### 2.1.5 Coming into Force (Clause 3)

Clauses 1 and 2 of the bill are deemed to have come into force on 11 April 2020, except that, for the periods described in paragraphs (a) and (b) of the definition of “qualifying period” in section 125.7(1) of the ITA, paragraphs (a) and (b) of the definition of “eligible entity” in section 125.7(1) of the Act are to be read as follows:

- (a) a corporation, other than a corporation that is exempt from tax under this Part or is a public institution;
- (b) an individual.

## 2.2 PART 2: ENACTMENT OF THE *TIME LIMITS AND OTHER PERIODS ACT (COVID-19)* (CLAUSE 4)

Clause 4 of the bill enacts the TLOPA.

The purpose of the TLOPA is to temporarily suspend and authorize the temporary suspension or extension of certain time limits established by or under Acts of Parliament to prevent exceptional circumstances produced by the COVID-19 pandemic from making it difficult or impossible to comply with those time limits. It also provides for the temporary extension of certain periods for the purpose of preventing any unfair or undesirable effects that may result from the expiry of those periods due to those exceptional circumstances (section 5(1) of the TLOPA). The term “period” is defined as including the time during which a licence, permit or other authorization is valid (section 2 of the TLOPA).

The bill also introduces a schedule that sets out the Acts of Parliament and regulations, together with their relevant provisions and regulations, in respect to which time limits or other periods can be suspended or extended. Section 4 of the TLOPA, however, specifies that the TLOPA does not apply to investigations and the proceedings of an offence and to other time limits established under the *Corrections and Conditional Release Act*.

### 2.2.1 Time Limits Related to Proceedings

Section 6 of the TLOPA suspends any limitation period for commencing a court proceeding and any time limit in relation to a court proceeding if those limitation periods or time limits are established through an Act of Parliament. Those suspensions are valid from 13 March 2020 to 13 September 2020, or on any earlier day fixed by order of the Governor in Council on the recommendation of the Minister of Justice (section 6(1)).

Courts may vary the suspension of time limits and make orders respecting the effects of a failure to meet a suspended time limit, such as an order that cancels or varies those effects. The TLOPA also authorizes the Governor in Council to lift a suspension on the recommendation of the Minister of Justice (sections 6(2) to 6(4)).

### 2.2.2 Other Time Limits and Periods

Section 7 of the TLOPA specifies that a minister responsible for an Act of Parliament or for a regulation listed in the schedule of the TLOPA may make orders to suspend or extend time limits or extend any other periods referred to in those Acts and regulations. They may also make orders to extend a suspension or extension. Ministerial orders do not apply to time limits or other periods that end on or after 31 December 2020, and the total duration of a suspension or extension must neither exceed six months nor continue after 31 December 2020. These orders are also subject

to any restrictions and conditions the Governor in Council may establish by regulation on the recommendation of the Minister of Justice (sections 7(1) to 7(4) and 7(7) of the TLOPA).

Ministerial orders may also

- be retroactive, but not prior to 13 March 2020 (section 7(5) of the TLOPA);
- include provisions regarding the effects of a failure to meet the time limit or of the expiry of the period before the order was made, including provisions that cancel or vary those effects (section 7(5));
- require the consent of a specific person, court or body for a suspension or extension to apply, or require that a suspension or extension applies unless a specific person, court or body decides otherwise (section 7(6)); and
- stipulate that a specific person, court or body may vary the effects of the order (section 7(6)).

### 2.2.3 Transparency and Parliamentary Oversight

The *Statutory Instruments Act* does not apply to an order made by a minister, a court or the Governor in Council under sections 6(1), 6(2), 6(3) or 6(4), or 7(1) or 7(2) of the TLOPA (section 8 of the TLOPA).

However, an order in council made under sections 6(1) or 6(4) of the TLOPA or a ministerial order made under sections 7(1) or 7(2) of the TLOPA, together with the reasons for making it, must be published:

- on a Government of Canada website within five days after the day on which it is made (section 10(1) of the TLOPA); and
- in Part I of the *Canada Gazette* within 14 days after the day on which it is made (section 10(2) of the TLOPA).

The order must also be tabled in each house of Parliament within three days after the day on which they are made or, if a house is not sitting, “at the earliest opportunity.” An order tabled in a house of Parliament must also be referred to a committee of that house (section 11 of the TLOPA).

### 2.2.4 Sunset Provision

The powers conferred on the Governor in Council and ministers under the TLOPA must not be exercised beyond 30 September 2020 (section 9 of that Act).



2.3 PART 3: AMENDMENTS TO THE *INCOME TAX ACT*  
AND THE *CHILDREN'S SPECIAL ALLOWANCES ACT*  
REGARDING THE DISCLOSURE OF TAXPAYER INFORMATION  
(CLAUSES 5 AND 6)

Clause 5 amends section 241(4) of the ITA, which sets out the circumstances in which government officials can disclose taxpayer information. New section 241(4)(h.1) of the ITA allows an official to use taxpayer information or share taxpayer information with an official of a department or agency of the Government of Canada if it is necessary for a purpose relating to the administration or enforcement of a program that provides a one-time payment to persons with disabilities for reasons related to COVID-19.

Clause 6 amends and renumbers section 10(2) of the CSA Act. The federal Children's Special Allowances program provides payments to federal and provincial agencies and institutions that care for children. New section 10(2)(a) of the CSA Act states that when information is obtained by or on behalf of the Minister of National Revenue in the course of the administration and enforcement of that Act, it can only be released if it is necessary for the administration or enforcement of certain statutes.

New section 10(2)(b) of the CSA Act provides that information may also be released to the Department of Employment and Social Development if the information is required for the administration of a program to provide a one-time payment to persons with disabilities for reasons related to COVID-19.

2.4 PART 4: AMENDMENTS TO THE *CANADA EMERGENCY RESPONSE BENEFIT ACT*  
(CLAUSES 7 TO 16)

Clauses 7 to 16 of the bill amend CERBA. CERBA was enacted through Part 2 of the *COVID-19 Emergency Response Act*<sup>9</sup> and came into force on 25 March 2020.

It authorizes income support payments, which the federal government calls the Canada Emergency Response Benefit (CERB), to workers who suffer a loss of income for reasons related to COVID-19. CERB amounts to \$500 per week and, at the time of the introduction of Bill C-17, was payable for up to 16 weeks.<sup>10</sup>

2.4.1 Application for Income Support Payments  
(Clauses 7 and 16)

Clause 7 of the bill amends section 5(1) of CERBA to modify the number of weeks in relation to which a worker may apply for an income support payment. Under the Act, a worker may apply for an income support payment for any four-week period from 15 March 2020 to 3 October 2020. Clause 7 amends and renumbers this provision of CERBA to allow a worker to apply for an income support payment:

- for any four-week period from 15 March 2020 to 4 July 2020 (new section 5(1)(a)); and
- for any two-week period from 5 July 2020 to 3 October 2020 (new section 5(1)(b)).

These amendments are deemed to have come into force retroactively on 25 March 2020, pursuant to clause 16 of the bill.

2.4.2 Eligibility for Income Support Payments  
(Clause 8)

Clause 8 of the bill amends section 6 of CERBA, which sets out the eligibility criteria for income support payments under the Act, to reflect the changes to the application provision as discussed in section 2.4.1 of this Legislative Summary. A worker is eligible under section 6(1)(a) of CERBA for an income support payment if they have ceased working for at least 14 consecutive days within a four-week period from 15 March 2020 to 3 October 2020. Under the amended and renumbered provision, a worker is eligible for an income support payment if:

- in relation to the first application made for any four-week period from 15 March 2020 to 4 July 2020, they ceased working for at least 14 consecutive days (new section 6(1)(a)(i)); or
- in relation to any other application made for any four-week period from 15 March 2020 to 4 July 2020, or for any two-week period from 5 July 2020 to 3 October 2020, they ceased working for the period in respect of which they are applying (new section 6(1)(a)(ii)).

These amendments are also deemed to have come into force retroactively on 25 March 2020, pursuant to clause 16 of the bill.

Clause 8 further amends section 6 of CERBA by expanding the circumstances that would disqualify a worker from receiving income support payments. Specifically, a worker is not eligible for an income support payment if they do not return to work when it is reasonable to do so and the employer requests it, fail to resume self-employment when it is reasonable to do so, or decline a reasonable job offer when they are able to work (new sections 6(2.1)(a) to 6(2.1)(c)).

2.4.3 Request for Review  
(Clauses 9 and 13)

Clause 9 of the bill adds section 8.1 to CERBA to allow a person who has applied for an income support payment to request a review of a decision made in respect of that application. This request for review may be made to the Minister of Employment and Social Development within 30 days of the person having been informed of the decision or within any longer prescribed period (new section 8.1(1)).

Upon completion of the review, the minister must confirm, vary or rescind the decision (new section 8.1(2)), as well as notify the person who requested the review about the outcome (new section 8.1(3)). The minister's confirmation, variation or rescission is final (new section 8.1(4)).

The new provisions regarding a request for review apply regardless of the date on which the decision in respect of the application was made (clause 13).

2.4.4 Suspension of Limitation Period  
(Clause 11)

Clause 11 of the bill amends and renumbers section 13(6) of CERBA to provide that the running of the limitation period regarding monies owing under the Act is suspended, not just while it is prohibited to commence or continue an action against the person, but also while a review of a decision establishing the person's liability for money owing under the Act is pending (new sections 13(6)(a) and 13(6)(b)). The limitation period on actions taken to recover monies owing as set out in section 13(1) of CERBA remains set at six years.

2.4.5 Penalties  
(Clauses 10, 14 and 15)

Clause 10 of the bill adds sections 12.1 to 12.6 to CERBA in relation to penalties. Specifically, under new section 12.1(1) of CERBA, the minister may impose a penalty on a person who has applied for an income support payment, or on someone acting on their behalf, for each of the following acts or omissions:

- knowingly making a false or misleading representation in relation to the application (new section 12.1(1)(a));
- upon being required under the Act to provide information, knowingly providing information or making a representation that was false or misleading (new section 12.1(1)(b));
- knowingly failing to declare all or some of the person's income for the period in relation to which they applied for an income support payment (new section 12.1(1)(c));
- knowingly making an application or declaration under the Act that was false or misleading owing to the non-disclosure of facts (new section 12.1(1)(d));
- knowingly receiving an income support payment for which they were not eligible (new section 12.1(1)(e)); or
- participating in, assenting to or acquiescing in an act or omission mentioned above (new section 12.1(1)(f)).

The amount of the penalty for each act or omission may be set by the minister at a maximum of three times the amount of an income support payment for a week (new section 12.1(2)).

The penalty constitutes a debt due to the Crown that may be recovered by the minister (new section 12.5(1)) and that may be subject to garnishment (new section 12.6).

However, no interest is payable on a penalty imposed under the Act, pursuant to clause 12 of the bill (amended section 14 of CERBA). Similar provisions exist with regard to monies owing as a result of an erroneous payment or overpayment.

In certain circumstances, such as upon the presentation of new facts, the minister may rescind or reduce the penalty (new section 12.3 of CERBA). The minister may also choose to issue a warning instead of a penalty (new section 12.4). A penalty, however, must not be imposed if a prosecution for the act or omission has been initiated (new section 12.2(a)) or if 36 months have passed since the act or omission occurred (new section 12.2(b)).

Clause 14 of the bill stipulates that new sections 12.1 and 12.4 of CERBA apply regardless of the date on which the act or omission occurred. Similarly, new section 12.6 of the Act (garnishment) applies regardless of the date on which the debt arose (clause 15).

#### 2.4.6 Offences (Clause 12)

Clause 12 of the bill adds sections 14.1 to 14.3 to CERBA in relation to offences. Specifically, under the new provisions, a person who commits any of the acts or omissions specified in sections 12.1(1)(a) to 12.1(1)(f) of CERBA is guilty of an offence (new sections 14.1(1)(a) to 14.1(1)(f) of CERBA) and will be prosecuted unless a penalty has already been imposed for that conduct (new section 14.1(2)). This person is liable on summary conviction to:

- a fine of up to \$5,000 plus up to double the amount of the income support payment that was or would have been paid in connection with the offence (new section 14.1(3)(a)); or
- both the fine and imprisonment for a maximum of six months (new section 14.1(3)(b)).

Further, a person who contravenes a provision of CERBA or the regulations, or who delays or obstructs an investigator designated for the enforcement of offences, is guilty of an offence (new sections 14.2(1) and 14.2(2)). Where no penalty is provided, this person is liable on summary conviction to a fine of up to \$2,000, to imprisonment for a maximum of six months, or to both (new section 14.2(3)).

An information<sup>11</sup> or complaint about an offence under CERBA may be heard, tried or determined by any provincial court judge if the accused is resident, carrying on business, found, apprehended or in custody in the judge's territorial jurisdiction (new section 14.3(3)). Proceedings with respect to an offence may be commenced no later than five years from the day the minister became aware of the subject matter of the prosecution (new section 14.3(4)).

NOTES

1. [Bill C-17, An Act respecting additional COVID-19 measures](#), 1<sup>st</sup> Session, 43<sup>rd</sup> Parliament.
2. House of Commons, [Debates](#), 1<sup>st</sup> Session, 43<sup>rd</sup> Parliament, 10 June 2020.
3. [Bill C-20, An Act respecting further COVID-19 measures](#), 1<sup>st</sup> Session, 43<sup>rd</sup> Parliament (S.C. 2020, c.11).
4. Bill C-20 reintroduced measures that were previously presented in Parts 1, 2 and 3 of Bill C-17, with some amendments.
5. [Income Tax Act](#), R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.).
6. [Children's Special Allowances Act](#), S.C. 1992, c. 48, Sch.
7. [Canada Emergency Response Benefit Act](#), S.C. 2020, c. 5, s. 8.
8. Government of Canada, "[3-01. Are all trusts eligible to claim the wage subsidy?](#)," *Frequently asked questions – Canada emergency wage subsidy (CEWS)*.
9. [COVID-19 Emergency Response Act](#), S.C. 2020, c. 5.
10. For additional information about the Canada Emergency Response Benefit, see Government of Canada, [Canada Emergency Response Benefit \(CERB\): Closed](#).
11. An information is a document produced by someone with information about a criminal offence. The information must be made in writing and under oath, and it may charge more than one offence or relate to more than one matter of complaint. Summary conviction proceedings under Part XXVII of the *Criminal Code* commence by the laying of an information in the prescribed manner. See [Criminal Code](#), R.S.C. 1985, c. C-46, ss. 788–789.