



LEGISLATIVE SUMMARY

BILL C-20: AN ACT RESPECTING FURTHER COVID-19 MEASURES

Publication No. 43-1-C20-E

13 October 2020

Isabelle Brideau, Brett Capwell and Adriane Yong

Parliamentary Information and Research Service

AUTHORSHIP

13 October 2020	Isabelle Brideau	Legal and Social Affairs Division
	Brett Capwell	Economics, Resources and International Affairs Division
	Adriane Yong	Economics, Resources and International Affairs Division

ABOUT THIS PUBLICATION

Library of Parliament Legislative Summaries summarize bills currently before Parliament and provide background about them in an objective and impartial manner. They are prepared by the Parliamentary Information and Research Service, which carries out research for and provides information and analysis to parliamentarians and Senate and House of Commons committees and parliamentary associations. Legislative Summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

Any substantive changes in this Library of Parliament Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

© Library of Parliament, Ottawa, Canada, 2020

Legislative Summary of Bill C-20
(Legislative Summary)

Publication No. 43-1-C20-E

Ce document est également publié en français.

CONTENTS

1	BACKGROUND	1
2	DESCRIPTION AND ANALYSIS.....	2
2.1	Part 1: Amendments to the <i>Income Tax Act</i> and <i>Income Tax Regulations</i> Regarding the Canada Emergency Wage Subsidy	2
2.1.1	Revenue for Amalgamated Corporations (Clauses 1 and 3(2))	2
2.1.2	Baseline Remuneration Periods (Clause 2(1))	2
2.1.3	Removal of 14 Consecutive Days Without Remuneration (Clause 2)	2
2.1.4	Application Deadline (Clause 2(7))	3
2.1.5	The Two-Part Canada Emergency Wage Subsidy (Clause 2)	3
2.1.6	Accrual Accounting (Clause 2(16))	5
2.1.7	Asset Acquisition Continuity Rule (Clauses 2(17) and 2(18))	5
2.1.8	Eligibility of Trusts (Clause 2(4))	6
2.1.9	Payroll Service Providers (Clause 2(9))	7
2.1.10	Linguistic Amendment (Clause 2(12))	7
2.1.11	Notice of Determination (Clause 3(1))	7
2.2	Part 2: Amendments to the <i>Pension Act</i> , the <i>Department of Veterans Affairs Act</i> , the <i>Income Tax Act</i> , the <i>Children's Special Allowances Act</i> and the <i>Veterans Well-being Act</i> regarding the Disclosure of Taxpayer Information and a One-time Payment to Persons with Disabilities.....	7
2.3	Part 3: <i>Time Limits and Other Periods Act (COVID-19)</i>	8
2.3.1	Time Limits Related to Proceedings (Section 6).....	9
2.3.2	Other Time Limits and Periods (Section 7).....	9
2.3.3	Transparency and Parliamentary Oversight (Sections 8, 10 and 11)	10

LEGISLATIVE SUMMARY OF BILL C-20: AN ACT RESPECTING FURTHER COVID-19 MEASURES

1 BACKGROUND

Bill C-20, An Act respecting further COVID-19 measures,¹ was introduced in the House of Commons on 20 July 2020 by the Minister of Finance. It passed second reading, was referred for study to the House of Commons Committee of the Whole and passed third reading on 21 July 2020. Bill C-20 was introduced in the Senate on 27 July 2020. It was passed by the Senate without amendment and received Royal Assent on 27 July 2020.

The bill reintroduces measures that were previously presented in Parts 1, 2 and 3 of Bill C-17, An Act respecting additional COVID-19 measures,² with some amendments. Bill C-17 failed to obtain the unanimous consent necessary for it to be expedited through all the stages of the legislative process, did not pass first reading, and died on the *Order Paper* when Parliament was prorogued on 18 August 2020.

Bill C-20 consists of three parts, comprising 11 clauses and a schedule:

- Part 1 amends the *Income Tax Act*³ (ITA) to enact changes to the Canada Emergency Wage Subsidy (CEWS), particularly with respect to amalgamated corporations, the baseline remuneration period, the treatment of specified entities, the use of payroll service providers and the adoption of a two-part CEWS.
- Part 2 amends the *Pension Act*,⁴ the *Department of Veterans Affairs Act*,⁵ the ITA, the *Children's Special Allowances Act*⁶ and the *Veterans Well-being Act*⁷ to allow personal information to be disclosed 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. It also provides that any amount paid in relation to the administration of the one-time payment program is to be paid out of the Consolidated Revenue Fund.
- Part 3 enacts the *Time Limits and Other Periods Act (COVID-19)*, which suspends certain time limits in relation to court proceedings and allows ministers to temporarily suspend or extend time limits and extend other periods in relation to specified Acts and regulations in order to respond to the exceptional circumstances of the COVID-19 pandemic.

2 DESCRIPTION AND ANALYSIS

2.1 PART 1: AMENDMENTS TO THE *INCOME TAX ACT* AND *INCOME TAX REGULATIONS* REGARDING THE CANADA EMERGENCY WAGE SUBSIDY

2.1.1 Revenue for Amalgamated Corporations (Clauses 1 and 3(2))

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) of the ITA). The amalgamated corporation will not be allowed to use this calculation if the main purpose for the amalgamation was to qualify for the CEWS or to increase the amount of the subsidy it would be eligible to receive. This provision is deemed to have come into force on 11 April 2020.

2.1.2 Baseline Remuneration Periods (Clause 2(1))

The CEWS baseline remuneration period is the period – at the time the bill 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 additional baseline remuneration periods for the CEWS. This change allows employers to choose – conditional upon the claim period of calculation – either the existing baseline remuneration period, the period from 1 March 2019 to 31 May 2019, the period from 1 March 2019 to 30 June 2019, or the period from 1 July 2019 to 31 December 2019.

2.1.3 Removal of 14 Consecutive Days Without Remuneration (Clause 2)

Clause 2(2) of the bill amends section 125.7(1) of the ITA to modify the definition of “eligible employee” so that, beginning on 5 July 2020, the requirement that an eligible employee be without remuneration for 14 or more consecutive days in a qualifying period would no longer apply. This provision is deemed to have come into force on 11 April 2020.

2.1.4 Application Deadline (Clause 2(7))

Previously, an eligible entity had to apply by 1 October 2020 to access the CEWS. Clause 2(7) amends section 125.7(1) of the ITA to extend that deadline to 31 January 2021 for all qualifying periods. This provision is deemed to have come into force on 11 April 2020.

2.1.5 The Two-Part Canada Emergency Wage Subsidy (Clause 2)

The CEWS was initially available for a period of 12 weeks – made up of three four-week periods between 15 March 2020 and 6 June 2020 – that provided a subsidy to eligible employers of eligible employees up to a maximum of \$847 per week per employee. The wage subsidy was extended for an additional 24 weeks up to 4 July 2020, with further amendments to qualification criteria. Bill C-20 modifies the CEWS so that it is comprised of a base wage subsidy and an additional top-up subsidy from 5 July 2020 to 21 November 2020. The bill also introduces a number of corresponding changes, detailed below.

Bill C-20 extends the CEWS from 6 June 2020 to 21 November 2020, with the ability for the government to further extend the CEWS by regulation to 31 December 2020. Consequently, an eligible employer can claim the wage subsidy for remuneration paid to eligible employees in the following qualifying periods (or claim periods):

- period 1 – 15 March 2020 to 11 April 2020;
- period 2 – 12 April 2020 to 9 May 2020;
- period 3 – 10 May 2020 to 6 June 2020;
- period 4 – 7 June 2020 to 4 July 2020;
- period 5 – 5 July 2020 to 1 August 2020;
- period 6 – 2 August 2020 to 29 August 2020;
- period 7 – 30 August 2020 to 26 September 2020;
- period 8 – 27 September 2020 to 24 October 2020;
- period 9 – 25 October 2020 to 21 November 2020; and
- a prescribed period that ends no later than 31 December 2020.

In order to determine whether and to what extent an employer is eligible for the CEWS, the employer must calculate its percentage decline in revenues relative to certain periods. In particular, during each claim period, an eligible employer can choose between comparing its revenues on a monthly basis (the “current reference period”) to its revenues from 12 months prior (the “prior reference period”), or

comparing its qualifying revenue in the current reference period with that of the average revenue earned in the months of January and February of 2020. An eligible employer must use the latter approach for claim periods 1 to 4 if it was not carrying on a business or its ordinary activities on 1 March 2019, and must in any case maintain the chosen calculation method across claim periods 1 to 4. The employer can elect to utilize either calculation method for claim periods 5 to 9, irrespective of their previous choice, but must maintain the chosen calculation method across those claim periods. Additionally, if an employer's percentage decline in revenues in a given month is lower than its percentage decline in revenues for the immediately preceding qualifying period, the employer is deemed to have realized the prior period's percentage decline in revenue in its current qualifying period.

Clause 2(13) creates two calculations for the CEWS base rate depending on whether the eligible employer has a decline in revenues of 50% or more during the claim period of calculation (the current reference period) or a decline in revenues of less than 50% during that period. For the former, the maximum base rate is equal to \$1,129 per week per employee for claim periods 1 to 4, and will decline to 60% of this value in claim periods 5 and 6, 50% in claim period 7, 40% in claim period 8 and 20% in claim period 9.

For eligible employers with a decline in revenues below 50% for the claim period of calculation, the maximum base rate is phased out gradually relative to their decline in revenues, reaching zero where the employer has no decline in revenue relative to the period of calculation. A percentage of the maximum CEWS base rate is provided for those employers, which is equal to 1.2 multiplied by their percentage revenue decline for claim periods 5 and 6, or 1.0, 0.8, and 0.4 multiplied by their percentage revenue decline for claim periods 7, 8 and 9, respectively. For claim periods 5 and 6, employers who would have been better off under the previous CEWS design in claim periods 1 to 4 would be eligible for a 75% wage subsidy if they have a revenue decline of 30% or more.

Employers that have experienced a three-month average revenue decline of more than 50% – calculated relative to that same time period 12 months prior or relative to the average monthly revenue in January and February 2020 – are also eligible for a top-up CEWS. The top-up is equal to a percentage of \$1,129 per week per employee based on the calculation of 1.25 multiplied by the average revenue drop that exceeds 50%, up to a maximum top-up CEWS rate of 25%, which is attained at a 70% revenue decline.

Notably, the initial CEWS framework provided unique treatment for active reduced-pay employees, while the new formula discontinues this approach. The wage subsidy in respect of such employees is now based solely on their remuneration, regardless of their baseline remuneration.

A different formula is applied to the qualifying revenues of a registered charity or certain tax-exempt entity. For example, qualifying revenues of such organizations include gifts but exclude government-sourced funding. Under the initial CEWS framework, prescribed eligible entities that are also public institutions – such as universities and school boards – were not eligible to use those computational rules. Under the new framework, such prescribed public institutions may benefit from the special computation rules if they otherwise qualify for the CEWS.

Finally, the new CEWS formula distinguishes between eligible employees who are on paid leave (furloughed employees) and those who remain actively employed. For claim periods 5 and 6, the subsidy calculation for a furloughed employee remains the same as for claim periods 1 to 4. The subsidy is not available to non-arm's length furloughed employees or those who have no baseline remuneration (new employees), and the subsidy for furloughed employees is subject to a maximum cap to be prescribed by regulation.

These changes to the CEWS are enacted by clauses 2(2), 2(3), 2(5), 2(6), 2(8), 2(10), 2(11), 2(13), 2(14), 2(15) and 2(20), amending various provisions of section 125.7 of the ITA, and are retroactively deemed to have come into force on 11 April 2020. In addition, clause 4(1) repeals certain regulations pertaining to the initial CEWS calculation formula contained in Part LXXXIX.2 of the *Income Tax Regulations* as of 7 June 2020.

2.1.6 Accrual Accounting (Clause 2(16))

Under the initial CEWS framework, an employer could elect to calculate its qualifying revenues based on the cash method, whereby revenue is reported on the income statement only when cash is received, and expenses are recorded only when cash is paid out. Clause 2(16) amends section 125.7(4)(e) of the ITA to allow employers who ordinarily use the cash method to compute their revenues to elect to calculate their qualifying revenues using the accrual method, whereby revenues and expenses are recorded at the time of their underlying transaction, prior to funds being exchanged. This amendment is retroactively deemed to have come into force on 11 April 2020.

2.1.7 Asset Acquisition Continuity Rule (Clauses 2(17) and 2(18))

Under the initial design of the CEWS, in circumstances in which a business purchased all or substantially all of the fair market value of assets of another business and such assets generated revenue for the purchaser, the increased revenues resulting from the purchase may have rendered the business ineligible for the CEWS since those revenues would have affected the calculation of the revenue decline of the

business. That practice may not have reflected the true economic impact of the COVID-19 pandemic on such businesses.

Clauses 2(17) and 2(18) amend sections 125.7 and 125.7(6)(b) of the ITA, respectively, to enable a purchaser of such assets to account for a revenue reduction attributable to newly acquired assets relative to their pre-pandemic revenues, and therefore potentially to qualify for the CEWS. In order to qualify, the purchaser must have acquired the assets during or before the claim period; the acquired assets must have been used by the seller in the course of a business carried on in Canada by the seller; and it must be reasonable to conclude that the main purpose of acquiring these assets was not to increase the amount of the CEWS to which the acquiring eligible employer would otherwise have been entitled. If these conditions are satisfied and the parties elect to do so, the qualifying revenue of the seller during the relevant claim or reference period will be included (assigned) in determining the qualifying revenue of the purchaser for the purpose of calculating its revenue decline under the CEWS. Similarly, this revenue will be subtracted from the seller's CEWS relevant reference period to prevent the seller and purchaser from both claiming the CEWS in respect of the same revenue. In addition, any portion of the assigned revenue derived from a person who does not deal at arm's length with the seller but does deal at arm's length with the buyer is deemed not to be derived from persons not dealing at arm's length for the purposes of calculating the qualifying revenue.

These provisions are effective retroactively from 11 April 2020 and apply for all qualifying periods.

2.1.8 Eligibility of Trusts (Clause 2(4))

Clause 2(4) of the bill amends the definition of “eligible entity” with respect to the CEWS set out in section 125.7(1) of the ITA in order to limit the trusts that qualify for the CEWS to the following:

- 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 Act 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.⁸

This provision is deemed to have come into force retroactively, on 11 April 2020.

2.1.9 Payroll Service Providers
(Clause 2(9))

Under existing legislation, employers who use a payroll service provider to manage their employee payrolls may be ineligible for the CEWS because a condition for receiving it is to have a payroll account registered with the Canada Revenue Agency (CRA).

Clause 2(9) 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.

This provision is deemed to have come into force retroactively, on 11 April 2020.

2.1.10 Linguistic Amendment
(Clause 2(12))

Clause 2(12) amends the definition of “institution publique” in the French version of section 125.7(1) of the ITA to align it with the English version.

2.1.11 Notice of Determination
(Clause 3(1))

Clause 3(1) amends section 152 of the ITA to provide the Minister of National Revenue with the statutory authority to determine the amount, if any, of an employer’s CEWS entitlement and issue a notice of determination accordingly.

2.2 PART 2: AMENDMENTS TO THE *PENSION ACT*, THE *DEPARTMENT OF VETERANS AFFAIRS ACT*, THE *INCOME TAX ACT*, THE *CHILDREN’S SPECIAL ALLOWANCES ACT* AND THE *VETERANS WELL-BEING ACT* REGARDING THE DISCLOSURE OF TAXPAYER INFORMATION AND A ONE-TIME PAYMENT TO PERSONS WITH DISABILITIES

Part 2 consists of six clauses relating to the disclosure of personal information by the federal government in order to provide financial support to persons with disabilities.

Clauses 5, 6 and 9 respectively amend provisions in the *Pension Act*, the *Department of Veterans Affairs Act* and the *Veterans Well-being Act* that relate to the disclosure of veterans’ personal information.

Prior to April 2006, the benefits and services that were provided to disabled veterans and their families were offered through the *Pension Act*. Those benefits and services are currently offered pursuant to the *Veterans Well-being Act*. Section 109.2 of the *Pension Act* and section 81 of the *Veterans Well-being Act* describe the circumstances in which personal information collected by the Minister of Veterans Affairs in the administration of those acts can be disclosed.

Clauses 5 and 9 add new section 109.2(f) to the *Pension Act* and new section 81(f) to the *Veterans Well-being Act*, respectively, to allow personal information to be disclosed to the Department of Employment and Social Development or to an official of the Canada Revenue Agency, if that 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.

Similarly, clause 6 adds new section 6.7(f) to the *Department of Veterans Affairs Act* to allow personal information to be disclosed to the Department of Employment and Social Development or to an official of the Canada Revenue Agency, if that 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.

Clause 7 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) is added to allow an official to use taxpayer information or share taxpayer information with an official of a department or agency of the Government of Canada, if that information 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 8 amends and renumbers section 10(2) of the *Children's Special Allowances Act*. The federal Children's Special Allowances program provides payments to federal and provincial agencies and institutions that care for children. Section 10(2) 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 the Act, it can be released only if it is necessary for the administration or enforcement of certain statutes or programs. New section 10(2)(b) of the *Children's Special Allowances 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.

Lastly, clause 10 states that any amount paid by the Minister of Employment and Social Development with respect to the administration of a program to provide a one-time payment to persons with disabilities for reasons related to COVID-19, including any administration cost, is to be paid out of the Consolidated Revenue Fund.

2.3 PART 3: *TIME LIMITS AND OTHER PERIODS ACT (COVID-19)*

Clause 11 of the bill enacts the *Time Limits and Other Periods Act (COVID-19)* (TLOPA).

The purpose of the TLOPA is to temporarily suspend and authorize the temporary suspension and extension of certain time limits established by or under Acts of

Parliament in order 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).

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 of an offence or proceedings related to an offence, or to other time limits established under the *Corrections and Conditional Release Act*.

2.3.1 Time Limits Related to Proceedings (Section 6)

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)).

The powers conferred on the Governor in Council under section 6 of the TLOPA must not be exercised beyond 30 September 2020 (section 9).

2.3.2 Other Time Limits and Periods (Section 7)

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. Ministers 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)).

Ministerial orders may also

- be retroactive, but not prior to 13 March 2020 (section 7(5));
- 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)).

The powers conferred on the Governor in Council and ministers under section 7 of the TLOPA must not be exercised beyond 30 September 2020 (section 9).

2.3.3 Transparency and Parliamentary Oversight (Sections 8, 10 and 11)

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

However, orders in council made under sections 6(1) and 6(4) of the TLOPA and ministerial orders made under sections 7(1) and 7(2), together with the reasons for making them, must be published:

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

Such orders must also be tabled in each house of Parliament within three days after the day on which they are made or, if either 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).

NOTES

1. [Bill C-20, An Act respecting further COVID-19 measures](#), 1st Session, 43rd Parliament (S.C. 2020, c. 11).

2. [Bill C-17, An Act respecting additional COVID-19 measures](#), 1st Session, 43rd Parliament.
3. [Income Tax Act](#), R.S.C. 1985, c. 1 (5th Supp.).
4. [Pension Act](#), R.S.C. 1985, c. P-6.
5. [Department of Veterans Affairs Act](#), R.S.C. 1985, c. V-1.
6. [Children's Special Allowances Act](#), S.C. 1992, c. 48, Sch.
7. [Veterans Well-being Act](#), S.C. 2005, c. 21.
8. Government of Canada, "[Eligibility](#)," *Frequently asked questions – Canada emergency wage subsidy (CEWS)*.