

## COVID-19: Update on the Canadian Government's Programs Supporting Businesses

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May 28, 2020

Over this last week, the Government of Canada has announced various changes to the programs that it has put in place to support businesses during the COVID-19 pandemic. This brief article provides an overview of these changes and proposals.

### Canada Emergency Commercial Rent Assistance

The Canada Emergency Commercial Rent Assistance (CECRA) program, as described in our newsletter of April 27, 2020, is designed to allow small businesses to reduce their rent in cooperation with their landlords. As of May 25, 2020, the application documents for the CECRA for small businesses are now available and applications are being accepted\*.

The program continues to be designed such that it is directed at small business tenants with less than \$50,000 per month in gross rent; annualized consolidated revenues of less than \$2 million; and who have experienced a drop of at least 70 percent in their pre-COVID-19 revenues. The expected form that the CECRA will take is:

- Property Owners are to reduce their rent by "at least 75 percent" for their small business tenants;
- The Federal Government, through the CECRA program, will cover "50 percent of the rent";
- The Tenant is to pay "up to 25 percent" of the remaining rent; and
- The Property Owner is to forgive "at least 25 percent" of the rent.

As we have discussed previously, the rationale behind this program appears to be to support Tenants by having Property Owners bear a portion of the expense of rent in the short term, so that they will continue to have tenants in the long term. It is expected, therefore, that Tenants and their Property Owners will work together as part of the CECRA program.

\*Due to the volume of applications that the Government of Canada is anticipating, they have staggered the timeline for submissions of Applications as follows:

- **Monday, May 25:** Property owners who are located in Atlantic Canada, British Columbia, Alberta, and Quebec, with up to 10 tenants who are eligible for the program.
- **Tuesday, May 26:** Property owners who are located in Manitoba, Saskatchewan, Ontario, and the Territories, with up to 10 tenants who are eligible for the program.
- **Wednesday, May 27:** All other property owners in Manitoba, Saskatchewan, Ontario, and the Territories.
- **Thursday, May 28:** All other property owners in Atlantic Canada, British Columbia, Alberta, and Quebec.
- **Friday, May 29:** All property owners across Canada.

### Canada Emergency Business Account

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On May 19, 2020, the Government of Canada announced the expansion in eligibility criteria for the Canada Emergency Business Account (CEBA) to include "many owner-operated small businesses" by allowing for businesses with payrolls of less than \$20,000 to apply.

In order to apply, a business with a payroll of less than \$20,000 now needs to provide:

- a business operating account at a participating financial institution;
- a Canada Revenue Agency business number, and to have filed a 2018 or 2019 tax return; and
- eligible non-deferrable expenses between \$40,000 and \$1.5 million. Eligible non-deferrable expenses could include costs such as rent, property taxes, utilities, and insurance.

Additional details of the program, including the date for applications under the new criteria, are expected to be released shortly.

### **Paid Sick Leave**

On May 25, 2020, the Prime Minister announced his intention to push all provinces across Canada to introduce a paid sick leave that would provide employees with up to ten (10) days of paid sick leave. The Prime Minister noted that employees should not be forced to choose between paying their rent and attending at work with COVID-19 symptoms, stating:

*"That's why the government will continue discussions with the provinces, without delay, on ensuring that as we enter the recovery phase of the pandemic, every worker in Canada who needs it has access to ten days of paid sick leave a year. And we'll also consider other mechanisms for the longer term to support workers with sick leave."*

Currently, Ontario's *Employment Standards Act, 2000* ("ESA") does not provide employees with paid sick leave. For a brief period in 2018, the ESA provided two (2) days of paid leave for illness as part of what was then known as the Personal Emergency Leave. This paid leave was repealed by the Ontario Conservative Government as part of its *Making Ontario Open for Business Act, 2018*.

We will continue to monitor these areas and provide you with further updates as they become available. Please note that this bulletin is intended for informational purposes only and does not constitute legal advice or an opinion on any issue. If you have any questions, please contact the authors or your Miller Canfield lawyer with further questions.

*This information is based on the facts and guidance available at the time of publication, and may be subject to change.*