

November 23, 2021

**LIFE AFTER CERS:
THE TOURISM AND HOSPITALITY RECOVERY PROGRAM AND THE HARDEST-HIT
BUSINESS RECOVERY PROGRAM**

After a couple of extensions, the Canada Emergency Rent Subsidy (“CERS”) program finally came to an end on October 23, 2021.

The Canadian government has now introduced two new programs: the Tourism and Hospitality Recovery Program and the Hardest-Hit Business Recovery Program. Both programs took effect on October 24, 2021 and will run until at least November 20, 2021, although the Canadian government has signalled that it intends to extend them until May 7, 2022 (with authority for further amendments until July 2, 2022). As of today’s date, the Canadian government has not made any official announcement about the potential extension of the programs.

The Tourism and Hospitality Recovery Program

Full details have not been released, but the Canadian government has explained that the Tourism and Hospitality Recovery Program will support “organizations in selected sectors of the tourism and hospitality industry that have been deeply affected since the outset of the pandemic and that continue to struggle”. Eligible organizations include hotels, restaurants, bars, festivals, travel agencies, tour operators, convention centres and convention and trade show organizers.

The Tourism and Hospitality Recovery Program will provide financial support by way of wage and rent subsidies.

To qualify, eligible organizations must demonstrate a revenue loss of at least 40% in the current month and

during the period from March 2020 to February 2021. The rent subsidy rate will continue to be calculated in accordance with existing CERS program rules. The maximum rent subsidy rate will be 75% from October 24, 2021 to March 12, 2022. It will start at 40% for eligible organizations with a 40% revenue decline and will increase in proportion to current-month revenue loss up to a maximum rate of 75%. Rent subsidies will be reduced by half from March 13, 2022 to May 7, 2022.

So far, the Tourism and Hospitality Recovery Program has not been greeted with enthusiasm from the restaurant industry, which is not satisfied with the eligibility criteria. Restaurants Canada is pushing to lower the 40% revenue loss threshold, since they expect only 50% of restaurants will qualify. Restaurants Canada is lobbying for change before the Tourism and Hospitality Recovery Program is extended until May 7, 2022.

The Hardest-Hit Business Recovery Program

The Hardest-Hit Business Recovery Program will support organizations that do not qualify for the Tourism and Hospitality Recovery Program and that “have been deeply affected since the outset of the pandemic”.

The Hardest-Hit Business Recovery Program will provide financial support by way of wage and rent subsidies in much the same way as the Tourism and Hospitality Recovery Program.

To qualify, eligible organizations must demonstrate a revenue loss of at least 50% in the current month and

during the period from March 2020 to February 2021. The rent subsidy rate will continue to be calculated in accordance with existing CERS program rules. The maximum rent subsidy rate will be 50% from October 24, 2021 to March 12, 2022. It will start at 10% for eligible organizations with a 50% revenue decline and will increase in proportion to current-month revenue loss up to a maximum rate of 50%. Rent subsidies will be reduced by half from March 13, 2022 to May 7, 2022.

Increase in Monthly Cap

Although the CERS program came to an end on October 23, 2021, tenants can apply for the remaining claim periods up to April 21, 2022. Under the existing CERS program, the government will cover a portion of eligible expenses in respect of each claim period. Currently there is a monthly cap on expenses that can be claimed of \$75,000.00 per business location and \$300,000.00 in total for all locations (including any amounts claimed by affiliated entities).

In connection with its announcement of the new programs, the Canadian government has proposed an increase in the monthly cap of eligible expenses that may be claimed under the CERS program from \$300,000.00

to \$1,000,000.00 (including any amounts claimed by affiliated entities) as of October 24, 2021. This new monthly cap would be available to all eligible employers and organizations that meet the new eligibility requirements under the Tourism and Hospitality Recovery Program and the Hardest-Hit Business Recovery Program.

Moratorium on Evictions

Interestingly, the information released by the Canadian government does not address how these new programs impact the moratoria on evictions that are still in place in Ontario and Nova Scotia. In Ontario, the eviction moratorium protects tenants who have applied for the CERS program and is in effect until April 22, 2022. In Nova Scotia, the eviction moratorium is not tied to the CERS program but is in effect until the Province's current state of emergency (which has been extended until November 14, 2022) ends. The future of these moratoria is unknown.

Although further details are needed, it is clear that the CERS program is out and the Tourism and Hospitality Recovery Program and the Hardest-Hit Business Recovery Program are in. We will be keeping a close eye on the legislation related to these programs and will report on further developments.

This publication is a general discussion of certain legal and related developments and should not be relied upon as legal advice. If you require legal advice, we would be pleased to discuss the issues in this publication with you, in the context of your particular circumstances.



Our secret for closing files lies as much in what is taken out as in what is put in. By eliminating exorbitant expenses and excess time, by shortening the process through practical application of our knowledge, and by efficiently working to implement the best course of action, we keep our clients' needs foremost in our minds. There is beauty in simplicity. We avoid clutter and invest in results.

Often a deal will change complexion in mid-stage. At this critical juncture, you will find us responsive, flexible and able to adjust to the changing situation very quickly and creatively. We turn a problem into an opportunity. That is because we are business minded lawyers who move deals forward. The energy our lawyers invest in the deal is palpable; it makes our clients' experience of the law invigorating.

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