

Protecting Workers and the Economy

Principles for a New Employment Insurance System

A memorandum to the Prime Minister's Office and the Privy Council Office

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COVID-19 is a health and economic storm unlike any others seen in modern history. The effects of this storm will be felt for months and years to come. Our employment insurance (EI) system was not fit to weather it. It was too slow and too complex. It was inaccessible and provided inadequate benefits for those who needed financial support most. For years workers, policy experts, economists, employers, and advocacy groups have described challenges with the EI system and called for its overhaul.

Too many workers continue to be left out, which has put them at great risk for both the public health and economic impacts of COVID-19. They include low-income workers, racialized workers, migrant workers, young workers, and women. The pandemic has once again brought these issues to the forefront of policy conversations.

The federal government responded quickly to temporarily fill gaps and address issues with EI, through the creation of the Canada Emergency Response Benefit (CERB) and other programs. However, CERB will not continue indefinitely nor was it designed for the long-term.

In anticipation of its eventual wind down, a transformation of the EI system is required so it can effectively play its role in a renewed social architecture: to protect against loss of income and erosion of living standards when workers lose their job or are temporarily separated from their employment, and as automatic stabilizer of the economy in the event of widespread economic downturn at the regional and national level.

We've undertaken major systems transformation in a crisis before. EI was born out of the Great Depression on the eve of World War II in response to mass unemployment. As we face similar issues today, three principles should anchor a new period of reform:

1. Financing EI from general revenues
2. Expanding access for workers
3. Ensuring adequacy of benefits

The recommendations found in this memo are a starting point for putting these principles into action and to 'weather-proof' against future economic storms. They are limited to EI Part 1, though we recognize that EI Part 2 will play a critical role in recovery and transition. While putting these in place, there will need to be ongoing support to protect workers who have lost their jobs, lost hours, or lost wages due to COVID-19 through a combination of programs like EI and the CERB.

PRINCIPLE 1: FINANCING EI FROM GENERAL REVENUES

If workers and employers contribute to EI financially, the federal government should too.

The federal government has a constitutional responsibility through the Employment Insurance Act to protect workers when they are unemployed in order to stabilize the economy when it experiences shocks.

Social insurance assumes a tripartite system with government, employers, and workers all contributing financially, but for the last 30 years the federal government has not been an EI funding partner. Canada is one of few advanced economies¹ in which the federal government doesn't contribute to its unemployment insurance scheme - until investing in CERB as part of its COVID-19 response.

It is time for the federal government to come back to the table - permanently, not just temporarily as we fight COVID-19. We recommend:

- That the federal government assumes its historic role and overarching responsibility to help fund EI through general revenues, in normal times and in periods of high unemployment. Many labour market challenges are beyond the control of individual businesses and workers and are the result of regional, national or even global events.
- Further, that the federal government play a unique role in ensuring access and equity by:
 - covering a higher replacement rate of income for lower paid individuals
 - supporting access for workers who do not currently pay benefits by providing the employer share (see Including Workers Excluded from Employment Protections in the next section for more information on a long-term strategy)
 - providing elevated rate of support for specific industries/regions in crisis or decline
- Moving quickly on a comprehensive review of EI that adjusts financing, focuses on improving access and benefit, and applies an equity lens using tools like Gender+ Based Analysis. These policy performance goals should be reported on annually to Parliament.

PRINCIPLE TWO: EXPANDING ACCESS FOR WORKERS

If workers pay into EI, they should be able to access it.

The federal government needs to ensure all workers who currently pay into EI can access it, and that more workers can contribute and benefit from it. Under the current system, many workers cannot access EI. Reciprocity rates hover around 40 percent nationally and in urban centres, where COVID-19 is having the greatest impact, this drops to below 30 percent.²

Millions of workers – including self-employed workers, gig workers misclassified as independent contractors, part-time workers, migrant workers, workers returning to school, and workers who leave jobs for a variety of complex reasons – are left out. In addition, unemployed women have been systemically underserved by EI since the mid-1990s.³ These inequities will put these workers at

¹ Asenjo, A. & Pignatti, C. (2019). *Unemployment insurance schemes around the world: Evidence and policy options*. International Labour Office Research Department Working Paper No. 49.

https://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_723778.pdf

² Wood, D. (2019). *Employment Insurance: Next Steps on the Road to Renewal*. Atkinson Foundation. https://atkinsonfoundation.ca/site/uploads/2019/02/Atkinson_EI-Report_13019-FINAL.pdf

³ ACORN Canada & MASSE. (2018). *The Employment Insurance Act: A Sexist Law in Need of Reform*. https://www.lemasse.org/wp-content/uploads/2018/10/Feuillet_anglais_F_web.pdf

further risk, as they face returning to an underprepared and potentially unsafe workplace due to a lack of options as the economy re-opens.

Ensuring that these workers can access EI will not only meet the scale required as the economy recovers amidst this pandemic, but will also speed up processing and simplify the system. This has been a key goal of the federal government's response to COVID-19.⁴

We recommend:

Implementing Universal Entry Requirements

The variable entry requirements of EI are one of the most cited features in need of reform.⁵ They are unfair, both across regions and as they predominantly impact low-wage and precarious workers, in part-time and/or temporary jobs. We recommend:

- Creating a low, universal entry requirement for all EI benefits including special benefits. Proposals vary from 300 to 360 hours. The CCPA has examined this issue and found that a lower requirement would primarily benefit low-wage workers.⁶
- Allowing workers to look beyond the previous 52-week time period for qualifying hours. People laid off in the early days of the shutdown will struggle to meet requirements. Denmark allows a lookback period of three years.⁷

Eliminating Punitive Disentitlements

Many workers currently pay into EI but are barred access, due to immigration status and reasons for leaving jobs. We recommend:

- Providing access for temporary foreign workers and seasonal agricultural workers, who currently cannot access EI due to work permit restrictions tying them to one employer and a 2013 restriction on SIN numbers.
- Providing access for international students who face a variety of challenges in accessing EI due to work permit restrictions.
- Removing disentitlements for 'quit/fire,' 'refuse work,' or school attendance. Women workers (who leave due to care responsibilities, harassment, etc.) and vulnerable workers in unsafe working positions are among those impacted. Eliminating these disentitlements would speed up claims, as analysis of these situations cannot be done automatically and draws out the processing.

⁴ Department of Finance Canada. (2020). *Economic and Fiscal Snapshot 2020 – House Speech*. <https://www.canada.ca/en/department-finance/news/2020/07/economic-and-fiscal-snapshot-2020--house-speech.htm>

⁵ Wood, 2019.

⁶ Trajan, R. (2019). *Towards an Inclusive Economy: Syncing EI to the Realities of Low-wage Work*. Canadian Centre for Policy Alternatives. <https://www.policyalternatives.ca/publications/reports/towards-inclusive-economy>

⁷ Directorate-General for Employment, Social Affairs and Inclusion. (2020). *Denmark - Unemployment benefit*. European Commission. <https://ec.europa.eu/social/main.jsp?catId=1107&langId=en&intPagelId=4496#:~:text=To%20obtain%20entitlement%20to%20a.%20period%20of%203%20years.>

Including Workers Excluded from Employment Protections

Currently, self-employed workers are excluded from EI because they do not pay into it. Workers are also increasingly misclassified as independent contractors or self-employed. We recommend:

- The federal government should make paying into EI special benefits mandatory for all self-employed workers, following the example of the Quebec parental leave program, as a starting point. This includes a tax filing form⁸ to determine if the worker is truly self-employed, not a dependent contractor or misclassified employee. This will improve enforcement on misclassification of employees and also addresses some labour standards issues. Broader coverage of self-employed workers should be part of an EI review.
- Expanding the scope of ‘employers,’ ‘employees’ and ‘employment relationship’ in the federal labour code to include new employment practices such as app-based work arrangements, sub-contracting to independent contractors and fee-for-service arrangements under the federal government’s regulatory authority.⁹

Improving Access for Workers with Reduced Hours

As the economy opens back up, we’ve seen many situations where workers have some work, but not sufficient work to maintain living standards. Returning to work often entails fewer hours and irregular schedules week-to-week. This is consistent with previous economic downturns that have seen rises in on-demand employment during the early stages of recovery. While EI currently provides for working on claim and allowable earnings, we recommend:

- Adjusting rules to facilitate access for workers with multiple jobs who lose one/some, but not all, jobs or significant hours of work (20 percent reduction as per EI Worksharing).
- Rescinding the EI qualifying requirement of seven consecutive days without pay or work.
- Reforming EI Worksharing benefits to cover those recalled on a reduced schedule. They currently apply only to reduced schedules in lieu of layoffs.

PRINCIPLE THREE: ENSURING ADEQUACY OF BENEFITS

If workers are receiving EI, they should be able to live with dignity. They should be protected from significant erosion of living standards.

Many low wage workers earn below the poverty line and EI’s 55 percent income replacement rates result in even deeper poverty, undermining its core purpose. CERB set a rate of \$500 per week. Anyone working full-time earning less than \$21 per hour would get less than CERB on EI - 78 percent of people eligible for EI¹⁰.

⁸ See here: <https://www.revenuquebec.ca/documents/en/formulaires/rr/rr-65.a-v%282012-02%29d8.pdf>

⁹ Employment and Social Development Canada. (2019). *Report of the Expert Panel on Modern Federal Labour Standards*. <https://www.canada.ca/en/employment-social-development/services/labour-standards/reports/expert-panel-final.html#h2.4>

¹⁰ Macdonald, D. (2020). *Unemployment may hit 70 year high, but new EI replacement will help*. Canadian Centre for Policy Alternatives. <http://behindthenumbers.ca/2020/03/26/unemployment-may-hit-70-year-high-but-new-ei-replacement-will-help/>

We recommend:

- Raising replacement rates for all workers to 75 percent - this is currently the replacement rate for the Canada Emergency Wage Subsidy.
- Implementing a higher replacement rate of 85 percent for low-wage workers. There are both Canadian¹¹ and international¹² precedents of having higher replacement rates for low-income workers.
- Increasing the standard EI benefit duration across the country, for all regions and all claimants, to at least 52 weeks, given the extraordinary and extended COVID-19 recovery period. In the future, a return to variations in individual and regional durations could be considered as to not negatively impact regions that are highly dependent on seasonal industries.

Also, raising the maximum insurable earnings subject to premiums (while also raising maximum benefit rates) must be considered to improve EI's capacity to stabilize the economy. The Quebec parental leave program's maximum insurable earnings are \$78,500. For EI, they're only \$54,200.

CONCLUSION

The employment insurance system must be designed to increase our resilience, individually and as a whole economy, to help us to weather the inevitable, if not predictable, economic storms. To get there the federal government must undertake a comprehensive review of EI anchored in the principles articulated in this memo.

Second, an EI review should move alongside a broader assessment of Canada's income supports for working-aged adults, essential services, and public benefits. These include child care, long-term care, housing, social assistance, and fiscal balancing. This assessment will help situate how EI interacts with other programs and services and determine the appropriate fiscal and jurisdictional balance between federal, provincial/territorial, and municipal governments.

Third, we recommend the federal government create a multi-stakeholder labour market forum, that includes all orders of government, business, unionized workers, non-unionized workers, and community representatives, that engages on a regular basis to discuss, debate, research and advise on public policies and initiatives that could improve our collective fortunes.

¹¹ Yalnizyan, A. (2009). *Exposed: Revealing Truths about Canada's Recession*. Canadian Centre for Policy Alternatives. https://www.policyalternatives.ca/sites/default/files/uploads/publications/National_Office_Pubs/2009/Exposed_Revealing_Truths_About_Canadas_Recession.pdf

¹² Asenjo & Pignatti, 2019.