

### **CEIC Announces 2022 EI Maximum Insurable Earnings**

The maximum insurable earnings for Employment Insurance (EI) premiums will increase from \$56,300 to \$60,300 in 2022, the Canada Employment Insurance Commission (CEIC) has announced.

Last year, the federal government said it would freeze EI premium rates at their 2020 levels for 2021 and 2022. As a result, the following rates and maximums apply for 2022:

#### **Employees outside Quebec**

Maximum insurable earnings: \$60,300

Employee premium rate: 1.58% (1.58% in 2021)

Employer premium rate: 2.21% (2.21% in 2021) (Unless Service Canada has approved a reduced rate)

Maximum employee premium payment: \$952.74

Maximum employer premium payment: \$1,333.84

#### **Employees in Quebec**

Maximum insurable earnings: \$60,300

Employee premium rate: 1.20% (1.18% in 2021)

Employer premium rate: 1.68% (1.65% in 2021) (Unless Service Canada has approved a reduced rate)

Maximum employee premium payment: \$723.60

Maximum employer premium payment: \$1,013.04

The CEIC also announced the following 2022 EI premium rate reductions (per \$100 of insurable earnings) for employers registered under the federal government's Premium Reduction Program:

- Category 1 plans: \$0.23
- Category 2 plans: \$0.36
- Category 3 plans: \$0.36
- Category 4 plans: \$0.39

The category refers to the group to which Employment and Social Development Canada assigns an employer, based on the type of wage-loss replacement plan the employer has set up. The rate reductions were set out in the *2022 Actuarial Report on the Employment Insurance Premium Rate* by the chief actuary. The report states that the following employer multipliers apply in 2022 for employers with qualifying wage-loss replacement plans:

- Category 1 plans: x 1.257 the employee premium (1.211 for Quebec employees)
- Category 2 plans: x 1.172 the employee premium (1.100 for Quebec employees)
- Category 3 plans: x 1.172 the employee premium (1.100 for Quebec employees)
- Category 4 plans: x 1.151 the employee premium (1.072 for Quebec employees)

The CEIC says it will notify employers registered in the plan individually of their 2022 reduced rate as individual premium reductions may vary.

### **Feds begin Consultations on EI Reform**

In August, the federal government launched consultations on future longer-term improvements to the Employment Insurance (EI) system.

Employment, Workforce Development and Disability Inclusion Minister Carla Qualtrough said in a news release that the consultations with workers, employers, and other stakeholders would help the federal government “better understand the needs of workers and employers who could benefit from improvements to the EI program, including in the areas of access, adequacy and affordability.”

She said the first area of focus for the consultations would be on systemic gaps in access to EI that the COVID-19 pandemic exposed, including the need for income support for self-employed and gig workers, the best ways to support individuals through different life events, and how to provide more consistent and reliable benefits to those who work in seasonal employment.

The consultations will also examine ways to simplify the EI rules for workers and employers.

As part of the consultations, the government created an online survey, which is open for feedback until October 8, 2021. It is also holding roundtable discussions with stakeholders and experts, including employee and employer associations, unions, and academics. For more information on the consultations, visit [canada.ca/ei-consultations](https://canada.ca/ei-consultations).

We will continue to monitor this story and will report on further developments in upcoming releases.

### **Reminder: CLC Amendments Expand Bereavement Leave**

Just a reminder...Effective September 29, 2021, the number of days of bereavement leave per year that employees in federally regulated industries may take will increase from five to 10.

The changes were contained in Bill C-220, *An Act to amend the Canada Labour Code (bereavement leave)*, which received royal assent on June 29, 2021.

Employers will not be required to pay employees for the five additional days of bereavement leave.

The legislation will also extend eligibility for bereavement leave beyond immediate family to include employees who are on compassionate care leave or leave related to critical illness for a family member when the family member dies.

### **Reminder: Federal Pay Equity Act in Force Aug. 31**

Just a reminder...Effective August 31, 2021, the federal government's new *Pay Equity Act* and regulations come into force.

The Act requires federally regulated employers with 10 or more employees to take proactive steps to ensure that they provide equal pay for work of equal value.

Legislation to create the Act passed in 2018 as part of Bill C-86, the *Budget Implementation Act, 2018, No. 2*, which received royal assent on December 13, 2018.

For more information on pay equity for federal workplaces, see <https://www.canada.ca/en/services/jobs/workplace/human-rights/overview-pay-equity-act.html>.

### **Reminder: Minimum Wage Rates Rising on Oct. 1**

Just a reminder... Minimum wage rates will rise in some Canadian jurisdictions to the following amounts on October 1, 2021:

- Manitoba: \$11.90/hour (currently \$11.95)
- Newfoundland and Labrador: \$12.75/hour (currently \$12.50)
- Ontario: \$14.35/hour (currently \$14.25)\*
- Saskatchewan: \$11.81/hour (currently \$11.45)

\*Other minimum wage rates in Ontario will also go up on October 1, 2021:

- Homeworkers (110% of general rate): \$15.80/hour (currently \$15.70)
- Students under 18 working fewer than 28 hours per week (or more than 28 hours during school vacation): \$13.50/hour (currently \$13.40)
- Tip-based employees who serve liquor on licensed premises: \$12.55/hour (currently \$12.45)
- Hunting/fishing/wilderness guides
  - working for fewer than five consecutive hours a day: \$71.75 (currently \$71.30)
  - working five or more hours, whether or not consecutive: \$143.55 (currently \$142.60)

### **Reminder: Upcoming Statutory Holidays**

Just a reminder... The following statutory holidays are upcoming:

- Mon. Aug. 2: British Columbia, New Brunswick, Northwest Territories, Nunavut, and Saskatchewan (The day is also a holiday, although not a statutory holiday, in Alberta. Municipalities in some Canadian jurisdictions may also designate the day as a holiday.)
- Mon. Aug. 16: Yukon—Discovery Day
- Mon. Sept. 6: All jurisdictions—Labour Day
- Thurs. Sept. 30: Federal—National Day for Truth and Reconciliation
- Mon. Oct. 11: All jurisdictions except New Brunswick, Newfoundland and Labrador, Nova Scotia and, Prince Edward Island—Thanksgiving
- Thurs. Nov. 11: All jurisdictions except Manitoba, Nova Scotia, Ontario, and Quebec—Remembrance Day. In Manitoba and Nova Scotia, the day is a holiday under each jurisdiction's *Remembrance Day Act*. As a result, the holiday is treated in a different way than holidays under employment/labour standards laws.

For information on entitlement to the holidays and how to compensate employees for them, please refer to the applicable jurisdiction in chapter 19, Statutory Holidays.

## **2022 Maximum Assessable/Insurable Earnings**

The following workers' compensation bodies have announced their maximum assessable/insurable earnings for 2022:

British Columbia: \$108,400 (2021: \$100,000)

Quebec: \$88,500\* (2021: \$83,500)

\*Proposed

## **B.C. Government Implements New Minimum Age Requirements**

Effective October 15, 2021, the British Columbia government will implement new rules that raise the general minimum age for employment from 12 years to 16 years.

The changes stem from legislative amendments included in Bill 8, the *Employment Standards Amendment Act, 2019*, which received royal assent on May 30, 2019. Before finalizing regulations to implement minimum age changes this year, the government consulted with employers, parents, and young people.

Under the new rules, employers will not be allowed to employ children under 14 years of age unless they have the permission of the director of Employment Standards. They will also not be able to hire a child under 15 years of age unless the child's parent or guardian provides written consent. Children who are 14 or 15 years of age will be permitted to do light work if their parent or guardian consents to it in writing, but they will not be allowed to do any other work unless the director of Employment Standards approves it.

Despite the new requirements, employers will not need the director's permission to hire children between the ages of 12 and under 16 if they do not require or permit them to do work that is listed as not being light work under the *Employment Standards Act's* regulations. An exception will also apply in situations where a member of the child's immediate family is an owner of the business or farm employing the child and where a child works as a camp assistant, assistant coach, referee or umpire in a sports or recreational activity for children under age 16 years.

"Light work" is work that is unlikely to harm the health or development of a child who is 14 or 15 years of age. Regulations under the Act prescribe light work as including tasks such as administrative work, stocking shelves, preparing food, busing tables, dishwashing, child care, cleaning, clearing snow, gardening, delivering goods, and troubleshooting user issues with technology, among other jobs.

The regulations also prescribe occupations that are considered light work, including cashier, computer programmer, lifeguard, referee, food/drink server, tutor, graphic designer, and writer, among others.

For a list of jobs and occupations that are and are not considered light work, refer to regulations under the Act at [https://www.bclaws.gov.bc.ca/civix/document/id/oic/oic\\_cur/0489\\_2021](https://www.bclaws.gov.bc.ca/civix/document/id/oic/oic_cur/0489_2021).

The new requirements will not apply to child employees who meet all of the following conditions: they were hired before October 15, 2021, their position and duties have not changed since October 15, 2021, and as of January 15, 2022, they will be 16 years of age or, if their position and duties include only light work, 14 years of age.

Existing rules for young people employed in recorded and live entertainment will continue to apply. For more information, see <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/hiring/young-people>.

### **B.C.: Paid Sick Leave Consultations Underway**

The British Columbia government is holding consultations on how it will implement permanent paid sick days in the province.

In the spring, the provincial legislature passed amendments to the *Employment Standards Act* that will require employers to provide paid sick leave to employees with more than 90 consecutive days of employment, beginning January 1, 2022. Bill 13, the *Employment Standards Amendment Act (No. 2), 2021*, which received royal assent on May 20, 2021, did not specify how many paid sick days employers would have to provide. The government said it would hold consultations to determine the number of days.

The first phase of consultations began August 5, 2021, with the government asking employers and workers to complete online surveys about the types of paid illness and injury leave currently provided and whether they meet workers' needs. The survey portal was open until September 14, 2021.

A second phase of consultations is scheduled for September 20, 2021 to October 25, 2021. During this time, the government will use the information gathered from the phase-one surveys to create and post for public feedback various paid sick leave models, including the number of paid days.

In November, the government is expected to provide an update on the feedback it received during phase two and set out the next steps for implementing paid sick leave. In November or December, it expects to create and finalize regulations for paid sick leave, ahead of the January 1, 2022 implementation date.

Once paid sick leave comes into effect, employers will be required pay employees their average days' pay for each day of the leave. An average day's pay is the amount paid or payable to an employee for work done during and wages earned within 30 calendar days before the leave, divided by the number of hours the employee worked or earned wages in that 30-day period. Employers will have to include any vacation pay paid or payable for vacation taken during the 30-day period. Overtime pay will be excluded. Regulations under the Act could set out other payment methods.

Employment Standards rules currently require employers to pay employees for up to three days of sick leave related to COVID-19. This requirement remains in effect until December 31, 2021. For more information, see 15.6.13, COVID-19-related Leave.

For more information on the consultation, see <https://engage.gov.bc.ca/paidsickleave/>.

We will continue to monitor this story and will report on further developments in upcoming releases.

## **WorkSafeBC Proposes Changes to its Policy for Determining Workplace Status**

WorkSafeBC is proposing to revise its policy on determining workplace status for employees and independent operators so that it focuses on whether there is a contract of service.

In July, the board released a discussion paper on a new draft policy and asked for feedback on it by December 15, 2021.

The discussion paper, called *Determining Workplace Status*, proposes to replace current guidelines that WorkSafeBC uses to determine workplace status with an analysis of whether a contract of service exists between two parties as the primary test for determining workplace status. If the analysis determined that there was a contract of service, the individual doing the work would be considered a worker and the person for whom the work is done would be their employer. If the board determined that the contract was not a contract of service, the individual would not be a worker. If the person met the definition of independent operator, they would be eligible to buy personal optional protection.

In cases where it was not clear whether there was a contract of service, the board would use the following four factors to make its decision:

- control over the person doing the work;
- chance of profit and risk of loss (i.e., whether the individual doing the work has an opportunity to make a profit or will risk a loss);
- who provides the major equipment for doing the job; and
- business integration (i.e., whether the individual doing the work has or continues to have an independent business existence in the course of the work or whether they are integrated into the employer's business operations).

The relevance and weight that WorkSafeBC would give to each factor would depend on the particular situation.

The revisions would also eliminate the categories of independent firm and labour contractor.

For more information on the proposals, see <https://www.worksafebc.com/en/resources/law-policy/discussion-papers/determining-workplace-status?lang=en>.

We will continue to monitor this story and will report on further developments in upcoming releases.

## **CNESST Announces Proposed 2022 Assessable Earnings Maximum**

The Quebec Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) is proposing to raise the maximum assessable earnings for workers' compensation from \$83,500 to \$88,500 for 2022; however, the CNESST cautions that it will not finalize the maximum until sometime this month.

We will continue to monitor this story and will report on further developments in upcoming releases.

## **Yukon Minimum Wage Increased Aug. 1**

Effective August 1, 2021, the Yukon government raised the minimum wage rate in the territory from \$13.85 per hour to \$15.20.

It is the second minimum wage increase this year. On April 1, 2021, the government raised the rate from \$13.71 to \$13.85.

The government announced the latest rate hike on July 23, 2021, after the territory's Employment Standards Board reviewed a government proposal to raise the rate and issued an order to increase it. Richard Mostyn, minister of Community Services, said the rate increase would align Yukon with other jurisdictions that have already raised their minimum wage to at least \$15 or have announced plans to do so, including Alberta, British Columbia, the Northwest Territories, and the federal government under the Canada Labour Code.

Future minimum wage increases in Yukon will be tied to the Consumer Price Index for Whitehorse and will occur on April 1 every year.

## **Payroll Q & A**

Question: When do I complete a *Record of Employment* (ROE) for an employee whose employment is being terminated, but who will receive a salary continuance for four months?

Answer: Employers have to issue ROEs when there is an interruption of earnings. With a salary continuance, there is no interruption of earnings until the salary continuance ends. Employees receiving a salary continuance continue to be paid their earnings and have access to benefits for a certain period (four months in this case). As a result, employers are not required to issue an ROE until the salary continuance concludes.

When preparing the ROE, make sure that the date reported in block 11 (last day for which paid) is the final day of the period in which the employee received the salary continuance, not the last day that the employee worked.

*Note: During a salary continuance, employers continue to take regular statutory deductions for Canada/Quebec Pension Plan contributions, Employment Insurance premiums, Quebec Parental Insurance Plan premiums, and income tax from the employee's earnings.*