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International Union Of Operating Engineers

Local 793

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Mike Gallagher
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April 6, 2020

Via E-Mail (justin.trudeau@parl.gc.ca)

The Honourable Prime Minister Justin Trudeau
80 Wellington Street
Ottawa, Ontario K1A 0A3

Dear Mr. Trudeau:

Re: Requested Changes to Employee Benefit related Legislation and Policy due to COVID-19 Crisis

Re: International Union of Operating Engineers, Local 793

I am writing on behalf of our 16,139 members to request immediate interim relief measures to allow us and our private sector employer and trade union partners from across the country utilize private sector resources to help you mitigate the catastrophic financial impact of the COVID pandemic. The immediate and urgent request is for an interim order under the *Canada Emergency Response Benefit Act* ("CERBA") issued by the Minister of ESDC to confirm that any income replacement relief provided to our members and their families to deal with the devastating impact of income interruption due to the pandemic is treated as a "relief grant" under Section 35 of the *Employee Insurance Act Regulations*.

Our members are employed in Ontario's construction industry as crane and heavy equipment operators and are hardworking middle-class Canadians. While we believe that we have developed safety protocols and practices that would allow our members to continue working safely, with limitations on essential services affecting the construction industry, they will not be able to continue working and are facing devastating financial challenges. Their housing costs are extraordinary. This is especially devastating for our members with younger families.

In response to this extraordinary challenge, our team has worked non-stop to develop and implement a plan to integrate the Canada Emergency Care Benefit ("CERB") with our existing short-term disability plan to utilize the assets in our health and welfare fund to provide immediate emergency relief to our members. We are ready to go today, but cannot proceed unless interim orders are issued to avoid the dilution of our emergency relief benefit if these benefits only serve to reduce or eliminate member CERB and employment insurance ("EI") entitlements.

The interim order authority granted under CERBA was specifically enacted to allow emergency relief to be provided in response to the pandemic and suspend the normal rules and conditions otherwise applicable to EI benefits. The powers specifically provide that the ESDC Minister may, for the purposes of mitigating the economic effects of the coronavirus disease, make interim orders to add or adapt provisions of the *Employment Insurance Act* or any of its regulations or suspend any provisions of the Act or the Regulations to implement the CERB objectives.

The immediate relief required falls squarely within the parameters of this interim order authority and would mobilize available private sector resources to be utilized to fulfill the Canadian government's purpose of mitigating the economic effect of this pandemic.

These interim orders should include the following:

- (i) Any income replacement benefit paid by any benefit plan, trade union, employer or any other organization in response to income loss due to the pandemic **[for which any individual qualifies for the CERB]** shall be treated as a relief grant pursuant to Section 35(7) of the EI Regulations;
- (ii) any plan providing COVID emergency relief grants, however established, shall be deemed a registered supplementary unemployment benefit plan pursuant to Section 37 of the EI Regulations and Section 145 of the *Income Tax Act* effective retroactively to March 15, 2020; and
- (iii) the interim orders shall prevail over any legislation or policy that may prohibit or restrict any benefit plan, including health and welfare trusts and employee life and health trusts, from using contributions to provide COVID emergency relief benefits.

With respect to the first order, there is existing judicial authority which we believe supports the view that the COVID emergency relief benefits we are proposing qualify as "relief grants" within the meaning of Section 35(7) of the EI Regulations, but we and our members require certainty in this regard.

Implementing these measures would have no cost impact on the government or Canadian taxpayers. Reallocating resources that would largely provide non-taxable benefits to put income in the hands of our members and Canadian workers, which they will use to keep the economy going, will provide a net economic benefit and is entirely consistent with your government's objectives and consistent with the extraordinary efforts that you and your team have made in dealing with this extraordinary challenge. We want to help and are asking that you provide the tools that are readily available to let us do that with the resources we have.

While we applaud the measures the government has rushed to put into place to date, these will not be enough to mitigate the economic impact on our members. The employer 75% subsidy is generous, it does not provide any assistance to our members or any Canadians who cannot work because of workplace shutdowns.

Please contact me at any time, I will make myself and advisors available to answer any questions or assist you in any way we can.

Yours truly,



Michael Gallagher
Business Manager

CC:

The Honourable Carla Qualtrough, Minister of ESDC (Carla.Qualtrough@parl.gc.ca)
The Honourable William Francis Morneau, Minister of Finance (Bill.Morneau@canada.ca)
The Honourable Jean-Yves Duclos, President of Treasury Board (Jean-Yves.Duclos@parl.gc.ca)
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