



If you are a Seasonal Agricultural Worker in Ontario there are different sets of laws that protect you. The Employment Standards Act (ESA) provides minimum protection for employees at the workplace and your employer must follow them. The ESA covers minimum wage and deductions, overtime and hours of work, vacation and public holiday pay, termination pay and reprisals. These protections may vary depending on your job title. For example, the ESA covers “farm workers” and “harvesters” differently.

Farm Worker

If you perform tasks such as: planting crops, cultivating, and pruning, you are not entitled to minimum wage, maximum of hours of work, overtime, daily rest periods, weekly/by-weekly rest periods, eating periods, public holidays and vacation pay. However, you are entitled to written notice of termination or termination pay.

Harvester

If you are employed on a farm to bring in fruit, vegetables and tobacco for marketing or storage, you are entitled to minimum wage, termination pay, paid public holidays and vacation with pay (special rules apply). And, you are not entitled to hours of work, daily rest periods, weekly/bi-weekly rest periods, eating periods, and overtime.

If you are working as a harvester, you have a right to

Minimum Wage

As March 31, 2010 the minimum wage is \$10.25 per hour. However, if your employer provides you with meals, he/she may deduct from your wages. How much can your employer deduct?

- Meals Daily: A maximum of \$6.50
- In Ontario your employer must provide free housing.

Holiday

After 13 weeks consecutive weeks or more with an employer you are entitled to take a public holiday off work and be paid public holiday pay. In some cases you may be required to work. Ontario has 9 public holidays. New Years Day (January 1), Family Day (February 16), Good Friday (April 2), Victoria Day (May 18), Canada Day (July 1), Labour Day (September 7), Thanksgiving (October 12), Christmas (December 25) and Boxing Day (December 26).

If you are working as a harvester or farm worker, you have a right to:

Termination

After 3 months, your employer must give written notice or termination pay when your job is ending. They must give 1 week notice or 1 week of pay for every year worked.

Vacation Pay

After 13 weeks or more with an employer, you are entitled to at least 2 weeks of vacation time. You are entitled to 4% of every dollar you earn OR vacation time with pay. If you do a combination of farm work and harvesting, vacation pay is earned based on the wages earned as a harvester.

Reprisal

It is illegal for your employer to fire you, threaten you or penalize you for asking about your rights under the ESA. However, many employers do penalize workers who speak up. It is important to get support and find out your options from one of the community organizations below if you think your employer is breaking the law.



To work in Canada as a Seasonal Agricultural Worker you must obtain a work permit. This document is issued by Citizenship and Immigration Canada and it allows you to work legally in Canada. You can only work for the employer whose name is on your work permit. Your work permit could be cancelled if you work for anyone other than the person named on your work permit, unless authorized by Service Canada and the government agent from your country.

The Employment Agreement, signed by you and the employer, defines the conditions of your work permit. According to this, you must be offered a minimum of 240 hours of work within a period of six weeks or less, for a maximum duration of eight (8) months between January 1 and December 15.

Conditions of Employment: _____

You should be provided with suitable accommodation, without cost.

You should be provided with proper and reasonable meals, OR cooking utensils, facilities, fuel, if you prepare your own meals.

Every worker is entitled to a trial period of 14 working days from the day of arrival at the place of employment. After this period the employer may send you back to your country if you have refused to work.

Note: Your employer may terminate your contract, and send you home – after the completion of the trial period – if you have, refused to work or for any other sufficient reason. The agreement does not state what these reasons could be. Many employers send workers back without a good reason.

Being Transferred?

Your employer can transfer you from one farm to another. Prior to your transfer, the employer must obtain your consent, and written approval from your local Service Canada office and your country's representative.

ALERT!

Once transferred The new employer has a 7 days trial period to decide if you are suitable for the job. If the employer decides you are not suitable, you are entitled to return to your previous job.



Both you and your employer pay into Employment Insurance. It is your employer's responsibility to deduct EI contributions and this should be recorded on your pay slips. To apply, go to the nearest Service Canada office.

Maternity Benefits, Parental and Compassionate Care Benefits

If you take a leave from work to care for a newborn baby or for a family member who is very sick and at risk of death, you could be eligible to get EI benefits. You must have worked 600 hours in the last 52 weeks to be eligible for these benefits.

Maternity benefits are paid to the mother for up to a maximum of 15 weeks. You may collect benefits up to 8 weeks before you expect to have your baby, but no more than 17 weeks after the week when your child was born.

Parental benefits can be paid to one or both eligible parents for up to a combined maximum of 35 weeks. You cannot apply for this type of benefit before your child is born. You can receive parental benefits within the 52 weeks after your child was born. (This also applies to adoptive parents).

You can receive **compassionate care benefits** for up to 6 weeks to care for a relative who is very ill. You will need to submit two forms:

- The "Authorization to Release a Medical Certificate" completed and signed by the ill family member.
- The "Medical Certificate for Employment Insurance Compassionate Care Benefits" completed and signed by the medical doctor of the ill family member confirming that the person is at significant risk of dying within 26 weeks.

You can receive these benefits while you are outside of Canada.

Sickness benefits

Employment Insurance sickness benefits for up to 15 weeks. If you need to take a leave from work because of an illness, you may be eligible for Employment Insurance sickness benefits for up to 15 weeks if you have worked 600 insured hours in the last 52 weeks. You must be in Canada to receive sickness benefits.

Protect yourself

Keep records

- Keep records of the wages you are paid, hours and dates you worked in a safe place. This will help you prove that your boss did not pay you properly.
- If your employer doesn't deduct EI from your pay, you may still be entitled to benefits. You can claim it later if you have dates and hours written down.
- Write down exactly what happened if you think your employer has done something that may be against the law, or has threatened you.

Get support

- You don't need to deal with a problem alone. Call one of the community organizations listed on this page to speak with someone confidentially and make a plan on how to deal with workplace violations
- If you ever feel in danger at work, contact the police right away.

Take action

- The community organizations listed on this page can help you make a plan on how to speak with your employer about workplace violation.
- You have six months to make a complaint to the Ministry of Labour for Employment Standards violations, and can claim wages from 6 months to 1 year back from when you make the complaint. The Ministry of Labour can order an employer to pay you up to \$10,000 of unpaid wages.
- Depending on your situation, you may want to consider small claims court or get a lawyer's advice. Through small claims court you have 2 years to make a complaint for amounts up to \$25,000.

Organize for change

- It is often difficult to take action on an individual situation, when an employer can easily send us home. That is why caregivers, farm workers, and other temporary workers are joining together to make changes collectively so that workers will have stronger protections at work no matter where they work.
- Many different organizations and workers are coming together through the Migrant Workers - Alliance for Change to improve working conditions under the live-in caregiver program and other temporary foreign worker programs.
- Join the Migrant Workers - Alliance for Change to be part of this process and to meet other workers who are fighting for change.
- If you have no immigration status in Canada or you know of undocumented workers that are looking to join in organizing with other undocumented people, please contact No One Is Illegal - Toronto at toronto.nooneisillegal.org and nooneisillegal@riseup.net

Get support

COMMUNITY ORGANIZATIONS

Workers' Action Centre
(416) 531-0778
www.workersactioncentre.org
All calls are confidential

Justice/Justicia for
Migrant Workers
(J4MW) c/o IAVGO
Toll Free Spanish: 1-866-521-8535
Toll Free English: 1-877-230-6311
www.justicia4migrantworkers.org

Migrant Workers
Alliance for Change
c/o WAC (416) 531-0778
mwalliance4change@gmail.com
www.migrantworkersalliance.org

GOVERNMENT

Service Canada
Toll-Free: 1-800-0-Canada
(1-800-622-6232)
www.servicecanada.gc.ca

Ministry of Labour
Toll Free: 1-800-531-5551
www.labour.gov.on.ca

MIGRANT WORKERS
Alliance for Change