



If you are working in Ontario under the Temporary Foreign Worker program, you are covered under Ontario labour laws. You also have a contract that should lay out basic protections at work. Although the Temporary Foreign Worker program covers many job areas, this fact-sheet focuses on the Low-Skilled pilot project. Common areas of work in this program are restaurants, meat processing and construction.

The Employment Standards Act (ESA) provides minimum protection for employees at the workplace, and your employer must follow them. In Canada you are protected under labour laws and under your contract, yet sometimes it can be hard to enforce your rights because of your temporary immigration status.

Under the ESA you have a right to:

Minimum wage

You must be paid at least the minimum wage for every hour you work. As March 31, 2010 the minimum wage is \$10.25 per hour. If you work in a restaurant where you serve alcohol, the minimum wage is \$8.90 per hour.

Your employer must provide you with a pay slip each pay period that shows your pay, hours and any deductions from your pay.

Hours of work

Daily: A maximum of 8 hours a day. If your employer wants you to work longer hours, they must ask you to sign a written agreement. If you work in construction, there are no maximum hours of work per day. In all jobs, if you are working as a manager or supervisor, there are no maximum hours of work per day.

Weekly: A maximum of 48 hours a week. If your employer wants you to work longer hours, they must ask you to sign a written agreement and get a permit from the Ministry of Labour. It is your legal right to refuse to sign the agreement. You can cancel an agreement by giving two-weeks notice in writing. If you work in construction, there are no maximum hours of work per week. In all jobs, if you working as a manager or supervisor, there is no maximum hours of work per week.

Overtime

After working 44 hours in one week, your employer should pay overtime pay of 1.5 times your regular pay. You can agree in writing to get paid time off instead of overtime pay. You should get 1.5 hours paid time off for each hour of overtime you worked. If you work in construction, there are special rules for overtime pay if you are building roads or sewers.

In all jobs, if you are working as a manager or supervisor, you are not entitled to overtime pay. If you are working in a restaurant and are not a manager or supervisor, even if you are paid by salary, you are entitled to overtime pay for hours worked over 44 hours per week.

Breaks and rest periods

You are entitled to an unpaid eating break of 30 minutes after every 5 hours you work. You should also get 11 hours off work each day and 24 hours off (in a row) work each week. Construction workers are not entitled to a daily or weekly rest periods. Managers and supervisors are also not entitled to a daily or weekly rest periods.

Public holiday pay

Ontario has nine public holidays every year. They are: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, and Boxing Day.

You are entitled to take the day off on a public holiday. You should get paid public holiday pay if you worked your shift before and after the holiday or had a good reason not to work. If you work on a public holiday, you should be paid 1.5 times your regular rate for the hours you work and receive public holiday pay. Or you can get paid your regular rate and take another day off with holiday pay.

Vacation pay

After working for 1 year for an employer, you are entitled to take off two weeks of paid vacation. Your employer has the right to tell you when you can take your vacation. You are entitled to 4% vacation pay for every dollar you earn.

Termination pay

After you have worked for 3 months for an employer, they must give you written notice if your job ends, or termination pay instead of notice. The amount you receive depends on how long you have worked for the employer. Your employer should also give you your Record of Employment (ROE), unpaid vacation pay and any unpaid wages. Construction workers are not entitled to termination pay.

Reprisals

It is illegal for your employer to fire you, threaten you or penalize you for asking about your rights under the Employment Standards Act.



To work in Canada as a temporary foreign 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. If you want to change or quit jobs, you would need to apply for a new work permit.

Want to extend your stay in Canada?

The work permit may be valid for up to four years and 3 months. Look for the expiration date on your work permit. After this date the work permit is no longer valid. If you want to renew your work permit, apply 30 days before it expires. If you did not apply to extend your work permit before it expired, you need to apply for a new work permit.

Changing or quitting your job?

You can change or quit your current job. If you find a new job, you will need to apply for a new work permit. Before you quit or change your job, you will need to request your record of employment (ROE), which is a document that shows the reason your job ended, hours worked and gross earnings. **KEEP IT IN A SAFE PLACE!!!** If your employer refuses to provide your ROE, contact your local Service Canada office. If you worked overtime, you should also request a record of any overtime hours you worked.

Applying for a new work permit?

To apply for a new work permit you need to fill out an application for a new work permit, and have a copy of a positive labour market opinion. Your future employer must obtain this document prior to hiring you and have a signed employment contract with your new employer. If your future employer has not provided this documentation, you must send your application to renew your work permit, and send a letter of explanation (at least 30 days before your work permit expires) to your local Service Canada office.

Applying for permanent residence?

You may be eligible to apply for permanent residence in Canada after you qualify under the Canadian Experience Class. To be eligible, you must be working in a job classified as NOC A & B for more than 2 years.



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.

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.

Sickness benefits

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.

Regular benefits

If your job ended or you were forced to quit, but you still have a valid work permit, you could be entitled to EI regular benefits while you are looking for another employer. To be eligible, you must have worked 910 hours in the last 52 weeks. If you have been working for more than a year, you may only need between 420 and 700 hours to qualify.

You should apply within 4 weeks of your last day of work. You must be able to show Service Canada that it was not your fault that your last job ended, or that you were forced to quit. It helps to write a letter of explanation about what really happened and add it to your EI application.

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. 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