



Temporary foreign workers

Your rights are protected



Welcome to Canada!

Canada is a strong supporter of human rights both at home and internationally. This pamphlet has been designed to inform you of your rights during your time in Canada as a temporary foreign worker.

Canadian law protects all workers in Canada, including temporary foreign workers like you. The exploitation of a foreign national may violate Canadian law and human rights.

Your employer:

- ♦ must pay you for your work (including overtime, where required);
- ♦ must make sure that your workplace is safe;
- ♦ must give you proper break time and days off;
- ♦ cannot force you to perform duties for which you were not hired or trained;
- ♦ cannot take your passport or work permit away from you; and
- ♦ cannot threaten to have you deported from Canada or to change your immigration status.

The Government of Canada condemns all acts of labour exploitation, including human trafficking. Human trafficking is the most extreme form of labour and sexual exploitation, and a serious crime, punishable by severe penalties, including imprisonment. See the back of the pamphlet for more information.

In Canada, employment in most occupations is covered under provincial and territorial laws. Every province and territory has an office that deals with labour and employment laws. A person at your local employment or labour standards office can talk to you about fair pay, hours of work, rest periods, working conditions and acceptable job duties, and may also provide other services.

Some occupations are federally regulated, and the employment standards fall under the Canada Labour Code. For a list of federally regulated workplaces, please visit the website listed at the end of the pamphlet.

For further information on all matters related to employment standards such as your contract, hours of work, minimum wage, termination of employment or your eligibility for certain benefits, please contact the provincial or territorial employment or labour standards offices or the Federal Labour Program.

Contact information and website addresses are available at the end of this pamphlet.

You do not need your employer's permission to call these offices or visit their websites. They cannot punish you or have you deported for using these services.

Employment contracts

For their protection, temporary foreign workers hired for occupations requiring lower levels of formal training must sign an employment contract with their employers. It is also advisable, but not required, that higher skilled temporary foreign workers sign an employment contract with their employer before starting work. Both you and your employer must comply with the terms and conditions of the contract and it should include:

- your pay and deductions from your pay;
- details of your job duties; and
- conditions of employment.

The “conditions of employment” section of your contract should outline the maximum number of hours you will work each week and how much you will be paid if you work overtime. The laws regulating hours of work and overtime (extra time or time worked after regular hours) may vary depending on the province or territory where you are working. In most cases, it should not exceed 48 hours a week including overtime.



You should keep a copy of the signed contract. If, in the future, you and your employer disagree about work details such as job duties, pay or working conditions, the contract may help you to resolve the issue and could be used to resolve a dispute in the appropriate provincial or federal tribunal. Once you are in Canada, you should not agree to sign another contract with terms and conditions that are less favourable to you without a reasonable justification.

The contract should also include information about pay deductions (for example, the premiums paid to the Canada Pension Plan and Employment Insurance benefits).

Employers hiring temporary foreign workers for occupations requiring lower levels of formal training must pay or provide for the following: the worker's transportation costs to and from Canada; private health insurance until the worker is eligible for provincial or territorial health care; and accommodation (where applicable). You can find further details on accommodation under the Accommodation section of this pamphlet.



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Changing employers

All temporary foreign workers are allowed to change employers, and you will not be penalized or deported for looking for another place to work. The National Job Bank or Working in Canada websites can help you search for a new job. For more information, visit the websites listed at the end of this pamphlet.

In many cases, your new employer must have permission to hire you as a temporary foreign worker. To do so, the employer may first have to apply for what is known as a labour market opinion, or LMO, from Human Resources and Skills Development Canada (HRSDC)/Service Canada. If HRSDC/Service Canada issues a positive LMO to the employer, they are allowed to hire you.

Unless you have an open work permit, you will also have to apply for a new work permit. Make sure to ask your new employer for a copy of the positive LMO letter and annex. Once you receive these documents, you may then apply to Citizenship and Immigration Canada (CIC) for a new work permit.

In some cases, you must also sign an employment contract with the new employer.

If you lose your job

In most cases, your employer must give you written notice and termination pay before asking you to leave your job. However, your employer may not have to warn you if you are let go for a “just cause” (for example, serious misconduct or missing work without good reason).

If you have an employment contract for a specific period of time or a specific job, your employer does not have to give you notice when your contract ends.

The rules about the notice of employment termination may vary depending on the province or territory where you are working.

If your employer does not follow the law when he dismisses you, you can complain to the provincial or territorial employment or labour standards office, or the Federal Labour Program office.

If you are covered by a union contract, you may have to make a formal complaint through the union.

Accommodation

Your employer does not have to provide you with a place to live in Canada, unless you are:

- a temporary farm worker hired under the Seasonal Agricultural Worker Program (SAWP) or the Agricultural Stream; or
- a live-in caregiver hired under the Live-in Caregiver Program (LCP).

Under the Agricultural Stream and under the LCP, your employer may deduct part of the cost of accommodation from your pay. Under SAWP, only employers in British Columbia can make payroll deductions for accommodation. In most other provinces and territories, the amount charged for meals and accommodation is limited to a maximum amount, which must be noted in your contract.

NOTE: At any time during your employment, you may choose to leave the housing provided by your employer in favour of private accommodations. If you are hired as a live-in caregiver under the Live-in Caregiver Program, you may move from the housing provided by your employer if you change employers or to protect your health and safety.

Occupational health and safety

All workers in Canada have the right to a safe and healthy workplace. There are laws to protect workers from unsafe working conditions.

Provincial, territorial and federal governments each have their own laws and ways of investigating health and safety matters.

For more information on your rights and responsibilities and complaints procedures, or to report an unsafe workplace or injury, contact your provincial or territorial occupational health and safety office or the Federal Labour Program regional office. Contact information is provided at the end of this pamphlet.

Is your work safe?

Ask yourself questions such as:

- ♦ Do I have proper training for the job I am doing and the machinery or equipment that I am using?
- ♦ Do I have the right safety equipment to do the job?
- ♦ Do I feel unsafe or afraid to get hurt when doing my job?
- ♦ Do I work close to dangerous materials?

Refusing dangerous work

You have the right to refuse to work if you believe that the work you are doing or have been told to do is dangerous and that you don't have the necessary training to perform the job duties or operate machinery.

Your employer cannot punish you for refusing dangerous work and must pay you until

- ♦ the danger is removed;
- ♦ you receive the necessary training and are ready to work;
- ♦ you feel the problem no longer exists; or
- ♦ a government official tells you that it is safe to do the work.

If you are hurt at work

Many provinces and territories provide workers' compensation benefits. Workers' compensation gives you assistance (medical or wage benefits) if you are hurt on the job or if your job causes you to get sick.

Your employer must register with provincial or territorial workplace safety insurance to ensure that workers are covered in case of injury.

Your employer must not deduct any money from your pay for the workplace safety insurance plan. For more information about workers' compensation benefits, contact your provincial or territorial workers' compensation boards.

To find their contact information, see the website addresses at the end of the pamphlet.

NOTE: If you have an accident at work, talk to your supervisor at once and see a doctor right away if you believe you may need medical help.

HUMAN TRAFFICKING — A SERIOUS CRIME

Human traffickers recruit, transport, harbour or exercise control over the movements of a person for the purpose of exploiting their labour or services. Victims suffer physical, sexual or emotional abuse and often live and work in horrific conditions.

If you believe that you are a victim of trafficking, or you know someone who is, please read the sections below. Human trafficking is a serious crime, and you are protected under Canadian law.

Are you a victim of human trafficking?

You might be a victim of human trafficking if you answer “yes” to one of these questions:

- Are you restricted from leaving the work site or your accommodation on your own?
- Has someone taken away your passport or work permit from you?
- Has your employer - or someone representing them - physically, sexually or psychologically abused you, or allowed it to happen to you?



- ♦ Has your employer or someone representing your employer threatened you or your family member?
- ♦ Do you fear something bad will happen to you or to a family member if you leave your job?

How do you identify a human trafficker?

Be aware that human traffickers entice and control their victims in a number of ways, such as:

- ♦ Lying to victims about future employment, travel, living conditions or treatment;
- ♦ Promising valid immigration and travel documents;
- ♦ Making offers that sound too good to be true;
- ♦ Threatening to harm the victim or the victim's family;
- ♦ Involving victims in criminal activities;
- ♦ Moving victims from workplace to workplace against their will or forcing them into prostitution; and
- ♦ Coaching victims on how to mislead officials.

Protection and assistance for victims of human trafficking

CIC helps protect victims of human trafficking by securing their immigration status with a special temporary resident permit (TRP). An initial TRP may be issued for up to 180 days but, depending on the person's situation, can be reissued at the end of the 180-day period.

Victims of human trafficking who receive a TRP are eligible for health-care services through the Interim Federal Health Program and may apply for an open work permit. For more information on TRPs, visit the website listed at the end of this document.

If you think that you are a victim of human trafficking or you suspect or know of human trafficking activity, please contact your local police at 911, or if you wish to remain anonymous, call your local Crime Stoppers Program at 1-800-222-8477.

NOTE: In Canada, victims of human trafficking are not required to testify against their trafficker to gain temporary or permanent resident status. There is no fee for an initial TRP or a work permit for victims of human trafficking.

TRP applications should be submitted in person at CIC local offices.

For more information about the closest CIC office, call this toll-free number: 1-888-242-2100 (from within Canada only).

Information and Resources

For more information about working in Canada and your rights, please refer to the following government authorities or contact the nearest Service Canada Centre. Please note that you do not need your employer's permission to visit the following websites. Your employer cannot punish you or have you deported for using these services.

- ♦ Human Resources and Skills Development Canada - Temporary Foreign Worker Program
http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/workers.shtml
- ♦ Service Canada
www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/hrcc.shtml
- ♦ Citizenship and Immigration Canada
www.cic.gc.ca/english/work/index.asp
- ♦ Temporary Resident Permits (TRP)
<http://www.cic.gc.ca/english/information/applications/trp.asp>
- ♦ Canada Border Services Agency
www.cbsa.gc.ca
- ♦ Human Resources and Skills Development Canada - Federal Labour Program
http://www.hrsdc.gc.ca/eng/labour/contact_us/contact_us.shtml
- ♦ Federally regulated workplaces
http://www.hrsdc.gc.ca/eng/labour/employment_standards/regulated.shtml
- ♦ List of provincial and territorial ministries of labour
www.hrsdc.gc.ca/eng/labour/employment_standards/ministries.shtml
- ♦ List of provincial and territorial workers' compensation boards
www.hrsdc.gc.ca/eng/labour/workers_compensation/wcb.shtml

- List of provincial and territorial occupational health and safety offices
<http://www.ccohs.ca/oshanswers/information/govt.html>
- Information on eligibility for employment insurance
http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/ei_tfw/ceie_tfw.shtml
- Information on Canada Pension Plan
http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/ei_tfw/cpp.shtml
- National Occupational Classification
www5.hrsdc.gc.ca/NOC/English/NOC/2006/Welcome.aspx
- Working in Canada
www.workingincanada.gc.ca
- Job Bank
www.jobbank.gc.ca

To speak to a representative about the Federal Labour Program, call 1-800-641-4049.

For general information on government services, call 1-800-O-Canada (1-800-622-6232).

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 Publication Services
 Human Resources and Skills
 Development Canada
 140 Promenade du Portage,
 Portage IV, 10th Floor
 Gatineau, Québec K1A 0J9

Fax: 819-953-7260

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