

# Provincial Report Card

## British Columbia



EVALUATING  
MIGRANT WORKER  
RIGHTS IN CANADA  
2018

### Legislative Protection of Migrant Workers

**D**

The BC *Employment Standards Act* includes provisions prohibiting BC-based recruiters from charging fees to workers, and requires employment agencies to be licensed, but penalties for unlicensed recruiters are minimal. Some caregivers and some farm workers are excluded from minimum wage, hours of work, and overtime provisions of the Act. There is no legislation designed to protect migrant workers' rights.

### Enforcement of Legislative Protections

**C**

The Employment Standards Branch (ESB) relies on complaints to enforce the Act. Complaints must be filed within six months of the incident, a barrier for migrant workers who are often reluctant to complain until they have left their employer. The ESB Farm Compliance Team is a proactive initiative that conducts some site visits, vehicle inspections and payroll audits on agricultural workplaces.

### Access to Permanent Residence

**B**

Migrant workers in certain "low-skilled" occupations related to tourism, hospitality, trucking and food processing are eligible for the Entry Level and Semi-Skilled category of the BC Provincial Nominee Program (PNP), and workers in any NOC C or D occupation are eligible for the Northeast Pilot Project. Seasonal workers are not eligible, and federal language requirements make the program inaccessible to many workers.

### Settlement and Support Services

**B**

Since 2014 the Province has funded 58 organizations to provide settlement services (not including language instruction) for newcomers ineligible for services funded by the federal government, including migrant workers. Language instruction is only available to those eligible for the PNP.

### Access to Information for Migrant Workers

**B**

Information on Employment Standards is available online in several languages. WelcomeBC has a web page with information for migrant workers in English, and ESB provides assistance in English to workers in person, online and by phone. Information sessions are sometimes provided to Seasonal Agricultural Worker Program (SAWP) workers by ESB in partnership with the Mexican Consulate. It is not clear that the information is reaching all migrant workers, and in some cases workers have been wrongly informed by their Consulate or employers. Information is also available at the funded settlement organizations.

### Awareness-raising among Employers

**B**

ESB has information available online about employer obligations to migrant workers. ESB staff conducts presentations for employers and employer associations on request, and provides educational sessions to employers of SAWP workers annually in collaboration with the Mexican Consulate, the Jamaican Liaison office and the BC Fruit Growers Association.

### Access to Healthcare

**C**

Migrant workers are eligible for provincial health care after a three-month waiting period, during which their employers must provide private health insurance. They are required to pay a \$38 monthly premium (down from \$75 as of 1 January 2018): they do not benefit from the premium reduction offered to low-income earners with permanent status. As a result, many do not register for health care coverage and some workers have no medical coverage at all.

### Noteworthy



Under a 2016 policy initiative coordinated between the BC and federal governments, migrant workers who are abused can apply for an open work permit. This is the first mechanism granting access to open work permits in Canada.

# British Columbia More Protections Needed



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British Columbia is second only to Ontario in the number of migrant workers in the Temporary Foreign Worker Program hosted, with 16,920 work permits issued in 2017. Given the large numbers it is particularly important that the province commit to protecting migrant worker rights. There have been some promising steps, but there is still much more to be done.

Although legislative and enforcement efforts to protect migrant workers have not improved, the Government of BC has said it will introduce measures to protect vulnerable workers from exploitation, including an employer registry and increased compliance measures. BC must also remove the exemptions from Employment Standards protections that some migrant caregivers and agricultural workers are subject to.

Farm Labour Compliance Team Statistics			
Year	Sites Inspected	Roadside Inspections	Payroll Audits
2014	38	11	18
2015	39	11	30
2016	36	13	55
2017	24	13	79

Proactive enforcement is limited to the Employment Standards Branch Agriculture Compliance Team, which conducts unannounced site visits and payroll audits, roadside vehicle inspections, and education with farm workers and their employers. The Compliance Team’s audits have increased since 2013, but they still reach only a small number of the farms employing migrant workers in BC. Proactive enforcement at all workplaces employing migrant workers is required. The six-month limit for filing complaints must be extended, as it prevents many migrant workers from recovering stolen wages and illegally charged recruitment fees.

Since 2014, the province has funded settlement agencies to provide services to migrant workers, a positive step, but there are still significant gaps. Services are often not adapted to migrant workers, who are generally unable to access services during office hours, and face transportation challenges if they are rurally located. In the first year, services were delivered to approximately 10% of migrant workers in the province at that time.

Since 2013, no improvement has been noted in awareness-raising of responsibilities among employers.

In 2016, BC introduced a joint initiative with the federal government that allows migrant workers who have faced abuse to apply for an open work permit when they file a formal complaint about their mistreatment with the support of a mandated settlement agency. This Temporary Foreign Worker at Risk program is a promising short-term solution for migrant workers, but it has limitations: workers must provide physical proof of abuse and find a settlement agency for support. Additionally, in the absence of any awareness-raising strategy, migrant workers may not know about this initiative. Between September 2016 and December 2017, Immigration, Refugees and Citizenship Canada received 38 applications to the program from migrant workers in BC. 33 work permits were issued, 4 applications were refused and 1 application was pending a decision.

Access to permanent residence for migrant workers in “low-skill” occupations via the BC PNP has remained steady in recent years. The cap for nominations was 6,000 in 2017, and 10% of nominee spots were allocated to entry-level and semi-skilled nominees. BC should increase the target numbers for “low-skilled” migrant workers, and introduce a family and community sponsorship stream as in Manitoba, so that workers are not dependent on their employer for sponsorship.

Migrant workers still experience barriers to healthcare due to the monthly premium, but the halving of the premium in January 2018 offers some relief. BC should extend provincial coverage to migrant workers on arrival, and extend the premium reduction offered to low-income earners to low-wage migrant workers.

Number of Work Permits Issued	2017
Live-in Caregivers	785
Agricultural Workers	7,575
Other Temporary Foreign Workers with LMIA	8,560
<b>Total</b>	<b>16,920</b>



Canadian Council for Refugees  
Conseil canadien pour les réfugiés