

Provincial Report Card

New Brunswick



Legislative Protection of Migrant Workers

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In 2014 New Brunswick amended the *Employment Standards Act* to create an employer registry and add provisions prohibiting employers from recovering recruitment and transportation costs from foreign workers, or threatening deportation, and clarifying legal practices with respect to foreign worker housing arrangements and the holding of personal documents such as passports and work permits. No regulation of recruiters has been introduced.

Enforcement of Legislative Protections

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Employment Standards enforcement remains mostly reactive (complaints-based), with the exception of a series of proactive audits on seafood processors in 2014-15. The Province has no mechanism to identify employers who have failed to register.

Access to Permanent Residence

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The New Brunswick Provincial Nominee Program is open to “low-skilled” (NOC C&D) migrant workers in certain occupations, with the support of their employer. The Family Support Stream whereby migrant workers could be sponsored by a family member living in New Brunswick was closed in February 2018. Workers in NOC C occupations are also eligible for permanent residence via the Atlantic Immigration Pilot Program. These programs are closed to seasonal workers, and federal language requirements make the program inaccessible to many migrant workers.

Settlement and Support Services

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Migrant workers are eligible for provincially funded settlement services (not including language instruction), but this plays out unequally between rural and urban areas. At many rural organizations migrant workers are able to access a variety of services, but in larger urban areas most services at the main settlement agencies are funded by the federal government, limiting access for migrant workers.

Access to Information for Migrant Workers

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The Population Growth Division created an Employee Guide for Temporary Foreign Workers in 2011, available online. While comprehensive, the guide is only available in English and French and was never circulated to migrant workers. It is now out of date given the 2014 amendments to the Employment Standards Act.

Awareness-raising among Employers

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The Population Growth Division created an Employer Guide to make employers aware of their rights and responsibilities. The guide was never distributed systematically to employers of migrant workers, and is now out of date. The Employment Standards Branch offers workshops to employers on request.

Access to Healthcare

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Migrant workers are covered by provincial health care after a three-month waiting period. During that period employers must provide private health insurance, but coverage may be less than provincial healthcare, leading to gaps in service.

New Brunswick

More substantial protections needed

New Brunswick took a promising step with its 2014 amendments to the *Employment Standards Act* (ESA), but the changes and their impacts have in fact been quite limited. An employer registry was created, but the Province has no means to track compliance with the requirement to register. Unlike other provinces, New Brunswick has not arranged with the Federal Government for a requirement that employers present a provincial certificate in order to obtain a positive Labour Market Impact Assessment. Without this verification mechanism, the impact of the registry is muted. While it is now illegal for employers to recover recruitment fees from workers, recruiters themselves are not regulated. New Brunswick should create a licensing regime for recruiters as other provinces have done.

Enforcement remains for the most part complaint-based, although the Employment Standards Branch carried out a proactive audit of 17 seafood processors employing migrant workers in 2014–15. Of the 17, seven were found to have violated rules, demonstrating the need for ongoing, proactive enforcement of legislation, and for administrative penalties and other consequences for infractions. Legislative protections and proactive enforcement must be prioritized and resourced by the New Brunswick government. The Province should also consider negotiating an initiative with the federal government to provide an open work permit to abused migrant workers who file a complaint with a provincial body, as has been done in British Columbia.

The 2013 news release about the ESA amendments stated that “an employer registry will strengthen the communication of the provincial government with foreign workers and their employers about employment standards and the rights and responsibilities of employees and employers”, yet there have been no resources or initiatives to inform migrant workers about their rights, or employers about their responsibilities since a guide – now outdated – was produced in 2011. The Province must act to inform migrant workers of their rights and recourses, as promised.

In 2017, 13% of nominees in the New Brunswick Provincial Nominee Program were “low-skilled” migrant workers. The Family Support Stream was a good practice, as migrant workers sponsored by family members in the province were not entirely reliant on their employer for access to status. This stream, which was closed in February 2018, should be reopened.

Provincial funding for rural settlement organizations to support migrant workers is a positive step. In urban areas the Province funded settlement services, including language training, for migrant workers at two of the large agencies from 2011 to 2014, but in 2014 this support was eliminated. A portion of the funding was reinstated in 2015, but significant gaps remain. The province should advocate for the federal government to make migrant workers eligible for IRCC-funded services, but in the meantime it should step in to fill the gaps across the province, as many migrant workers are under-served.

The three-month delay to access provincial health care is a barrier for migrant workers and other newcomers. New Brunswick should eliminate the waiting period and provide access to health coverage to all migrant workers on arrival.

Number of Work Permits Issued	2017
Live-in Caregivers	5
Agricultural Workers	115
Other Temporary Foreign Workers with LMIA	1,205
Total	1,325

