

Provincial Report Card

Ontario



Legislative Protection of Migrant Workers

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In 2015, changes to the *Employment Protection for Foreign Nationals Act* (EPFNA) expanded protections previously limited to caregivers, to cover all migrant workers in Ontario. EPFNA prohibits recruiters and employers from charging fees to migrant workers or seizing their documents. Workers have 42 months to file claims. Ontario's *Employment Standards Act* (ESA) excludes agricultural workers from the basic protection of minimum wage, and caregivers living at their employer's home are not protected under Occupational Health and Safety (OHS) Legislation. Ontario is one of two provinces that puts restrictions on agricultural workers' freedom of association. Caregivers are also not permitted to unionize.

Enforcement of Legislative Protections

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Since 2014, the Ministry of Labour has conducted enforcement "blitzes" targeting specific sectors, including three focused on employers of migrant workers. Advance notice of these audits is generally provided. While EPFNA prohibits reprisals against workers for exercising their rights under the legislation, there is no such mechanism under the ESA.

Access to Permanent Residence

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Previously limited to workers in "high-skilled" occupations, the Ontario Immigrant Nominee Program (OINP) introduced an In-Demand Skills Stream in August 2017, open to migrant workers in certain "low-skilled" occupations with a full-time permanent job offer from an eligible employer. The OINP remains closed to seasonal workers. The application fee is \$1500-\$2000, a significant barrier for low-wage workers, and federal language requirements are difficult to attain for many workers.

Settlement and Support Services

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The Province funds settlement services for which migrant workers are eligible, but these services are not widely available, and most migrant workers do not have access. There is no access to language instruction. The Ministry of Community and Social Services has recently provided 3-year funding to two community organizations to provide support services to migrant workers as part of the Province's Anti-Human Trafficking Strategy.

Access to Information for Migrant Workers

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A backgrounder on EPFNA is available online in several languages. EPFNA requires employers to give each worker a copy of an Employment Standards (ES) resource with basic information about workers' rights, available in several languages, and also available online. The Health and Safety Contact Centre and the ES Information Centre provide information by phone, and can arrange to serve the caller in their language. Few migrant workers report being aware of these resources.

Awareness-raising among Employers

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ES and OHS carry out awareness-raising during enforcement blitzes. There is a 2017-18 educational outreach initiative to farms employing migrant workers. The ES website has a "for employers" section with information sheets on EPFNA.

Access to Healthcare

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Seasonal Agricultural Workers have access to provincial health coverage on arrival. Other migrant workers have coverage after 3 months in the province (employers must provide health insurance for the first 3 months). In January 2018, the Worker Safety and Insurance Board (WSIB) committed to proactive measures to ensure migrant agricultural workers have access to relevant care both in Canada and in the workers' home country.

Noteworthy



The recent WSIB initiative, if implemented as outlined, will have a significant positive impact on migrant agricultural workers' access to healthcare.

Host to largest number of migrant workers must do more



Ontario Employment Standards exclude most agricultural workers and caregivers from many of the basic protections including provisions on overtime pay and maximum work hours per day, and from the right to unionize and collectively bargain. These exceptions affect the majority of migrant workers in the province, and expose two gendered and racialized populations to significant risk due to isolation and precarity of employment. Employment Standards should be revised so that no workers are excluded from protections.

Since agricultural workers are excluded from minimum wage provisions, they will not benefit from the recent increase to \$15 legislated by the Province.

From 2014 to 2016 Ontario conducted migrant worker-focused enforcement initiatives using information obtained under the Information Sharing Agreement with the federal government. Over this period, there were 184 inspections, and over \$70,000 in monies owing was recovered for migrant workers. Between 61% and 83% of employers were found to be non-compliant, indicating the need for more enforcement (a small minority of workplaces were inspected). During these blitzes officers distributed information on rights and responsibilities to workers and employers. Rather than occasional initiatives, the Ontario government should carry out systematic proactive enforcement of legislation, and distribute information on rights and recourse to all migrant workers. It should also create a registry and licensing system for employers and recruiters, as in three other provinces. Ontario should also negotiate an open work permit initiative for abused workers with the federal government, as British Columbia has done.

To facilitate access to the Ontario Immigrant Nominee Program (OINP) for the “low-skilled” workers who are now eligible, Ontario should fund settlement and support services for migrant workers, including language instruction, as some other provinces have done. To benefit migrant workers, services must be available evenings and weekends, and be offered in their language. Access to these services would

also make migrant workers less vulnerable to abuse. Ontario should open the OINP to all “low-skilled” workers, reduce the application fee, and introduce a family and community sponsorship stream as in Manitoba, so that workers are not dependent on their employer for sponsorship.

Although Seasonal Agricultural Worker Program (SAWP) workers are covered by provincial healthcare, they are still required to purchase their own private health insurance. SAWP workers lack information about coverage and making claims, and many do not understand the differences between their public and private insurance. As a result they may not seek treatment, or end up paying out of pocket for services that could be covered. The Province needs a proactive awareness-raising strategy to help them understand their coverage and how to access healthcare.

In January 2018 the WSIB announced the implementation of additional measures to ensure that migrant agricultural workers with a work-related injury or illness understand their coverage both in Canada and in their home country, and to facilitate access to healthcare through transportation and interpretation support, as well as direct payment to a healthcare provider in the country of origin. This is a very positive step, but information should be supplied to all workers on arrival (rather than after an illness or injury), and the provisions should be extended to all migrant workers.

Number of Work Permits Issued	2017
Live-In Caregivers	1,585
Agricultural Workers	21,195
Other Temporary Foreign Workers with LMIA	6,025
Total	28,805

