
EVALUATING MIGRANT WORKER RIGHTS IN CANADA 2018



Project Backgrounder

CCR Migrant Worker Report Cards



This Project

This series of report cards is an update to the CCR's Migrant Worker Report Cards initially published in May 2013. At that time, the Canadian Council for Refugees was concerned about Canada's shift from permanent to temporary migration, and the many documented abuses of migrant workers in Canada. Since 2013, migrant workers and advocates have continued to be vocal in their concerns about the Temporary Foreign Worker Program, organizing and mobilizing for change. Some changes and advances have taken place, with more needed. Five years later, we can take stock of what has been accomplished and what still remains to be done to ensure fair treatment of migrant workers in Canada.

The purpose of the project is to review the situation for migrant workers in each provincial and federal jurisdiction, and to make recommendations for changes that will improve the lives of migrant workers, making a more just society. The report cards are deliberately kept concise, and thus offer only a summary of a complex and changing reality.

Why the focus on migrant workers?

A number of factors related to the structure and implementation of Canada's Temporary Foreign Worker Program make migrant workers vulnerable to abuse. The root cause of migrant workers' vulnerability is their precarious immigration status: not only the temporary nature of their status, but the closed work permits that tie their status to one employer. Although in principle they have the same labour rights as Canadian workers, their status makes these rights largely inaccessible. Migrant workers hesitate to complain for fear of losing their job and thus their status in Canada, and may be unable to pursue recourses because they are forced to leave Canada long before a decision is rendered. Other factors such as lack of information or support services, isolation, and language barriers exacerbate their vulnerability. Some workers come to Canada deeply indebted to job recruiters and end up in situations of coercion and even labour trafficking.

Temporary labour migration in the context of Canadian immigration policy

Canada has a long history of exclusionary immigration policies. Until the 1960s, Canada's immigration policies were explicitly racist, and a wide range of barriers were put in place to deter or prohibit the immigration of non-whites. A similar pattern of discrimination, on the basis of race and class, continues to be seen in the Temporary Foreign Worker Program. Those coming to fill low-wage, so-called "low-skill" jobs are almost all racialized and they are for the most part restricted to temporary status, with no option to stay via federal immigration programs, although the jobs they fill are usually not temporary in nature.

Canada in the international context

It is important to look at Canada's exploitation of temporary migrant labour in the context of globalized economies. Canada is in some instances complicit in creating the conditions that displace communities in the Global South who then come to Canada as migrant workers. For example, communities in the Philippines, Guatemala and Mexico have been displaced by Canadian private mining interests and then come to Canada as migrant workers. Canada's trade relations can also contribute to creating a supply of migrant workers who can't find work opportunities at home. For example, NAFTA displaces some rural populations in Mexico that then come to Canada as migrant agricultural workers.

Explanation of terms

Migrant worker: when we use this term, we are referring for the most part to workers in the following streams of the Temporary Foreign Worker Program: low-wage (including some caregivers), agricultural stream, and Seasonal Agricultural Workers Program. These workers have tied work permits, and for the most part (with the historical exception of caregivers) do not have access to permanent residence. Both women and men come to Canada as migrant workers: some types of work (e.g. caregiving and agricultural labour) are highly gendered.

NOC C and D: the National Occupation Classification (NOC) is a system to classify jobs according to the type of work being done and the skill level assigned to that type of work. Jobs grouped under NOC codes A, B and O are considered high-skilled, while jobs grouped under NOC codes C and D are considered semi- and low-skilled. In these report cards, we have put skill levels in quotation marks as a way of calling into question the value assigned to job types that is then reflected in the way candidates are valued (or not) as prospective immigrants.

Provincial Nominee Program: the Provincial Nominee Program (PNP) is an immigration program that is jointly administered by the federal and provincial/territorial governments, and which allows provinces and territories to address their specific economic needs. There are currently bilateral agreements with all provinces and territories except Quebec and Nunavut.

Labour Market Impact Assessment (LMIA): employers wanting to hire workers under the Temporary Foreign Worker Program must obtain a positive LMIA which verifies that there is a need for a temporary worker and that no Canadians are available to do the job.

Employment and Social Development Canada (ESDC) and Immigration, Refugees and Citizenship Canada (IRCC): the Temporary Foreign Worker Program is jointly administered by these two federal departments. ESDC issues LMIA's to employers applying to hire migrant workers through the program, and IRCC issues the work permits that allow the workers to enter and work in Canada.

Note on numbers provided

In each report card, we have included a table with the number of work permits issued in 2017 to different types of workers under the Temporary Foreign Worker Program. It should be noted that the “other Temporary Foreign Workers with LMIA” category includes high-wage workers in the TFWP. The numbers of migrant workers actually present in each jurisdiction in a given year are not publicly available: in some cases more workers may have been present than the number of work permits issued.

Explanation of grades

The grades are intended to give a general indication of where the federal or provincial government stands with respect to protection of migrant workers' rights, both in relation to actions taken and changes since the 2013 report cards. For a detailed evaluation, please refer to the accompanying text.

A	Significant and innovative action taken
B	Considerable action taken but significant gaps remain
C	Some limited action taken
D	Insignificant action

CCR thanks the many organizations and individuals who provided input for these report cards.



Report Card Federal Government



Enforcement of TFWP Rules and Regulations

B

Inspections of employers of migrant workers (promised since 2013) and application of administrative penalties and bans have finally been implemented since 2016. Workplaces may be randomly selected for inspection, or chosen as a result of a tip. The names and information of non-compliant employers, with their infraction and penalty, are published online.

Protections from Unscrupulous Recruiters

D

Employment and Social Development Canada (ESDC) relies on an anonymous tipline and an online reporting tool to hear of cases of abuse by recruiters or immigration consultants in Canada, which are referred to the RCMP or elsewhere for investigation. No action has been taken to protect against recruitment fraud and abuse in the country of origin.

Ensuring Decent Housing

C

More stringent requirements regarding housing for migrant agricultural workers were put in place on January 1st 2018. Workers' lodgings must be inspected before the employer is granted a Labour Market Impact Assessment (LMIA). No strategy is in place to mitigate housing-related abuses for other migrant workers, notably in inappropriate accommodations and excessive rent.

Access to Permanent Residence

D

"Low-skilled" migrant workers are excluded from federal immigration programs, with the exception of caregivers. Access to permanent residence for caregivers was reduced in 2014 with a cap on applications and more stringent language and education requirements under the two caregiver streams that replaced the previous program. A 2019 deadline to apply under these streams was recently announced. The federal government limits "low-skilled" workers' access to Provincial Nominee Programs by imposing language requirements as well as numerical caps on the number of nominees.

Access to Benefits

C

Migrant workers are not entitled to full Employment Insurance benefits, despite making the same contributions as Canadians. They may not receive even those benefits they theoretically qualify for, if Service Canada declares them "unavailable to work" while between work permits. In 2012 eligibility to EI parental, maternal and compassionate benefits was restricted to those in Canada with a valid work permit.

Access to Recourses

C

Migrant workers have access in theory to the same recourses as Canadians, but face huge barriers in practice. Closed work permits make them dependent on their employer for status and employment, and thus reluctant to make complaints. There is no anti-reprisal mechanism to prevent employers from repatriating them, and where workers do submit a formal complaint, only in British Columbia is there a policy to grant them permission to remain in Canada while the complaint is investigated.

Information, Settlement and Support Services

D

Migrant workers in the TFWP are not eligible for federally funded settlement services. In December 2017 ESDC announced pilot funding for a migrant worker support group in British Columbia. ESDC has published an online information sheet on migrant workers' rights, available only in English and French. Workers have difficulty accessing information about their contracts from ESDC.

Family Unity

D

"Low-skilled" migrant workers in the TFWP and the Seasonal Agricultural Workers Program are separated from their families while in Canada.

Noteworthy



In December 2016 the Federal Government eliminated the "cumulative duration" rule that limited participation in the TFWP to four years.

Recent developments show promise, but a paradigm-shift is necessary



The number of migrant workers in Canada remains high: in 2017, the government issued 79,055 work permits to workers in the Temporary Foreign Worker Program. Since 2016, the federal government has shown an increased sense of responsibility for the protection of the rights of migrant workers in Canada.

Unfortunately, the root causes of migrant workers’ precarity – the closed work permit and temporary status of the worker – are still in place. In the short term, the federal government must allow migrant workers to have labour mobility so that they can leave bad work situations. Work permits should be open, or sector- or region-specific. In the medium term, Canada must revise its economic immigration program to reflect the broad needs of the Canadian labour market by including workers of all skill levels. The federal government should eliminate barriers to migrant workers’ access to Provincial Nominees Programs by making seasonal workers eligible and by reducing or eliminating language requirements, which are unfair given that migrant workers generally can’t access language instruction.

Despite some information-sharing agreements, several provinces have reported barriers to obtaining information in a timely way from the federal government for use in enforcement and information distribution, sometimes citing a high staff turnover at ESDC as a key challenge. ESDC must support the provinces in their efforts to protect migrant workers, and encourage those that haven’t taken such initiatives to do so.

Inspections Carried Out by ESDC

Fiscal Year	Agricultural Employers	Total TFWP
2016-2017	387	3,666
2017-2018 (as of January 31, 2018)	294	2,493

In the wake of the 2016 federal review of the TFWP, and of the 2017 reports of the Auditor General of Canada, the government has begun to take some actions to improve protections for migrant workers, with increased enforcement of program rules in 2016-17. At the end of October 2017, ESDC reported a 50% non-compliance rate in pre-arranged workplace inspections of employers who hire migrant workers, indicating a need for increased enforcement. These efforts are a positive step, but remain fraught: workers are unlikely to submit even an anonymous tip for fear of losing

their work permit and status if their employer is banned from the program. In light of the impact of enforcement on migrant workers, the government must automatically grant open work permits to workers whose employer is suspended, and implement an anti-reprisal mechanism to ensure employers don’t unjustly repatriate workers (whether for complaining or due to injury or illness). The collaboration between the BC and federal governments to provide an open work permit to abused migrant workers who file a complaint is a promising initiative to encourage access to justice: it should be implemented across the country as long as work permits remain tied to employers. The real solution to counter abuse is to open work permits and provide a viable option of permanent status to all workers.

Lack of access to support services exacerbates migrant workers’ vulnerability. IRCC funds most settlement services offered across Canada but excludes migrant workers. In many parts of the country, the only groups providing support to migrant workers are grassroots, volunteer-run groups with little to no budget. The government should extend eligibility for settlement services to migrant workers, and ensure that services are adapted to the needs of these workers, as well as funding grassroots organizations. Promisingly, the federal government has shown interest in funding a support network for migrant workers.

ESDC’s announcement of housing requirements and inspections for employers prior to hiring migrant agricultural workers is a positive step that should be extended to employers of caregivers and other migrant workers. Its effectiveness will depend on maintained proactive inspections of accommodations.

When ESDC is responding to employer demands, it must consider the impact on migrant workers. In early 2016 the federal government announced that unlimited 180-day LMIA would be offered, a concession to employers facing 10 and 20% hiring caps on migrant workers. Many migrant workers paid high fees to recruiters for these jobs, unaware that they were limited to 6 months. At the end of the 6 months, some workers fell out of status, not having paid off the debt incurred to recruiters. Others were able to renew their work permits, but suffer as a result of being ineligible for provincial healthcare and for permanent residence via provincial programs because their work permits are too short.

Predatory recruitment practices in the country of origin as well as in Canada remain a significant problem for migrant workers in the TFWP. Workers are indebted as a result of paying recruitment fees, reportedly up to \$40,000, and are thus more vulnerable to abuses including human trafficking. In some cases the recruiter is also the trafficker. Canada must take responsibility for these problems and collaborate with sending countries to find solutions. Canada should also commit to protecting migrant worker rights by signing the International Convention on the Rights of All Migrant Workers and Their Families and the 2014 Protocol to the Forced Labour Convention.

Human trafficking for labour exploitation remains a problem within the TFWP. In several cases, trafficked workers have fallen out of status and the Canada Border Services Agency has detained and deported them, with no access to justice. This inequitable enforcement acts as a deterrent for those who might otherwise report abuse. Survivors of trafficking are not always granted Temporary Resident Permits, especially in cases of labour trafficking.

The current government has shown initiative in protecting migrant workers. This must be accompanied by a longer-term vision of nation-building, and non-discriminatory labour and immigration policies.

Number of Work Permits Issued	2017
Live-in Caregivers	3,325
Agricultural Workers	48,105
Other Temporary Foreign Workers with LMIA	27,625
Total	79,055



Provincial Report Card

British Columbia



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



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
Total	16,920



Provincial Report Card

Alberta



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Legislative Protection of Migrant Workers

B

Since 2015 the *Enhanced Protection for Farm and Ranch Workers Act* has made Workers Compensation Board coverage mandatory on all Alberta farms and ranches, which are no longer excluded from Occupational Health and Safety legislation. Farm workers may now unionize and bargain collectively. Caregivers are not covered under Occupational Health and Safety Legislation, and are excluded from the basic protections of a minimum wage and maximum hours worked. The *Consumer Protection Act* prohibits charging recruitment fees to workers and requires recruiters to obtain a licence with the Province.

Enforcement of Legislative Protections

B

Alberta Employment Standards has a Special Investigations Unit that prioritizes vulnerable populations including migrant workers. The unit carries out proactive inspections and issues orders to employers. Tips can be submitted anonymously. Where a migrant worker has experienced wage theft or other financial abuse, complaints must be filed within six months, a barrier for migrant workers who are often reluctant to complain until they have left their employer. Service Alberta's Consumer Investigations Unit responds to complaints about breaches of the legislation on recruitment. In 2012 the enforcement regime was strengthened with administrative penalties and suspensions that are publicly reported online.

Access to Permanent Residence

B

Migrant workers in certain “low-skilled” occupations can access the Alberta Immigrant Nominee Program (AINP). Changes were announced that would reduce access for “low-skilled” workers, but these have been postponed to further consult stakeholders. The changes would increase language and income requirements and reduce the proportion of spots open to “low-skilled” workers. Seasonal workers are not eligible for the AINP, and federal language requirements are a barrier for many migrant workers.

Settlement and Support Services

B

Alberta funds basic information and referral services for migrant workers at settlement agencies in eight communities across the province (up from six in 2013). However, in 2017 funding was significantly reduced. Language instruction for migrant workers is not funded. Alberta is unique in offering a TFW helpline and two TFW advisory offices to support migrant workers dealing with violations of Employment Standards or human rights. However these initiatives are under-resourced and unable to meet the demand for support.

Access to Information for Migrant Workers

B

Alberta has developed useful resources for migrant workers about their rights, in several languages. These are available online, at settlement agencies serving migrant workers, and at the TFW advisory offices in Edmonton and Calgary.

Awareness-raising among Employers

B

The Province has developed a Guide for Employers of migrant workers and a Tip Sheet on the *Consumer Protection Act* relating to recruitment practices, as well as a general Employment Standards Guide and Toolkit. Since late 2016 the TFW Advisory Offices offer webinars as part of their outreach to employers.

Access to Healthcare

D

Migrant workers are only eligible for provincial health coverage with a work permit of 12 months or more. They are then covered on arrival. Seasonal workers and others with work permits of under a year must be covered by private insurance provided by the employer.

Noteworthy



In June 2016, the Alberta government started providing healthcare to Canadian-born children of parents without status, some of whom are former migrant workers.

Alberta

Two steps forward, one step back



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In 2017 there were 7,515 new work permits issued for migrant workers in Alberta, making it the fourth largest recipient of migrant workers in Canada.

While the changes brought into force with the *Enhanced Protection for Farm and Ranch Workers Act* have an important positive impact on migrant agricultural workers, caregivers remain exempt from Occupational Health and Safety (OHS) legislation, and are excluded from Employment Standards provisions on overtime and maximum hours of work, as well as minimum wage criteria. A gendered and racialized population is thus at significant risk due to isolation and precarity of employment.

The re-establishment of the Special Investigations Unit for vulnerable workers in 2016 represents a step forward. An OHS unit also carries out proactive inspections. Combined, these two units carried out 126 inspections of employers of migrant workers in 2016–17. Changes to the *Employment Standards Code* in force since January 1, 2018 are another step towards holding employers accountable. Previously, the law only provided for the prosecution of employer infractions through the courts, but Employment Standards may now impose administrative penalties between \$500 and \$6000 for violations of the legislation. Alberta should commit more resources to continue and increase proactive inspections of workplaces employing migrant workers, and the six-month limit for filing complaints should be extended, as it has a negative impact on migrant workers' ability to recover stolen wages and illegally charged recruitment fees.

The *Consumer Protection Act* (formerly the *Fair Trading Act*) prohibits recruiters and employment agencies in Alberta from charging migrant workers for finding them a job, and recruiters must make a \$25,000 deposit to become licensed. The enforcement regime for this legislation was strengthened in 2013 with administrative penalties of up to \$40,000, and reports of administrative actions taken on violators are published online. These steps are very positive.

Alberta has issued around 5,500 certificates yearly under the Alberta Immigrant Nominee Program (AINP) in the last several years, but the proportion being issued in the Semi-Skilled Worker category has plummeted from 25% in 2014 to 3.5% in 2017. The Province says this is the result of a decrease in applications. Alberta should enhance efforts to fill labour shortages and protect migrant workers by offering increased access to the AINP, but instead the Province plans to reduce “low-skilled” migrant workers' access to the program. The planned changes include an income requirement that is unrealistic for low-wage earners, and language requirements even more stringent than those imposed by the federal government, which already put the program out of reach for many workers. The planned narrowing of access for these workers is disappointing.

Cuts to provincial funding in 2017 have meant a decrease in settlement and support services for migrant workers, but service providers report that migrant workers actually need more support services, tailored to their needs. They note that, because of the vulnerability of migrant workers, advocacy and legal support services are required. Lack of language instruction is a significant gap, especially since this further limits access to the AINP.

To ensure access to healthcare, Alberta should extend provincial coverage to migrant workers on arrival regardless of the length of their work permit, and implement systematic awareness-raising to ensure they know how to navigate the system.

Number of Work Permits Issued	2017
Live-In Caregivers	715
Agricultural Workers	1,060
Other Temporary Foreign Workers with LMIA	5,750
Total	7,515



Provincial Report Card

Saskatchewan



Legislative Protection of Migrant Workers

A

Since 2013, the *Foreign Worker Recruitment and Immigration Services Act* (FWRISA) requires employers to register with the Province, and recruiters and consultants must obtain a licence to ensure they meet criteria and can be located. Licensees are required to post \$20,000 which can be used to pay compensation if the licensee violates the legislation. FWRISA prohibits charging recruitment fees or costs to foreign workers, and requires recruiters and consultants to sign transparent contracts with employers and foreign workers.

Enforcement of Legislative Protections

A

FWRISA is enforced through a Program Integrity Unit. There are two Integrity Officers who carry out investigations and audits, along with one intake and referral officer. Since 2013, hundreds of proactive audits and tip- or complaint-based investigations of employers and immigration representatives have been conducted, resulting in suspensions and disciplining. Information about sanctioned employers is not made public.

Access to Permanent Residence

C

Migrant workers in certain “low-skilled” occupations (long-haul truck drivers and some hospitality and food service workers) can access permanent residence via the Saskatchewan Immigrant Nominee Program (SINP). Seasonal workers are not eligible.

Settlement and Support Services

A

Migrant workers have access to provincially funded settlement services including language instruction in 11 “newcomer gateway” organizations. They can also access language training online. The organizations do not provide assistance with immigration processes.

Access to Information for Migrant Workers

B

Several resources created for migrant workers provide contact information for support services and the Program Integrity Unit. These can be accessed with online language translation, but the Province only provides the information in English. Employment Standards provides information sessions on FWRISA for migrant workers at the newcomer gateway organizations. Access to information may remain problematic for migrant workers who are isolated or don’t have internet access.

Awareness-raising among Employers

B

When FWRISA was introduced, public education meetings and mailings were undertaken to inform employers. Now the Province offers presentations only on request. Information about employers’ responsibilities to migrant workers is available online.

Access to Healthcare

A

All migrant workers with a valid work permit are covered by provincial healthcare, with no waiting period.

Saskatchewan

Building on a solid foundation



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The *Foreign Worker Recruitment and Immigration Services Act* (FWRISA), which came into force in October 2013, is the most comprehensive legislation in Canada to counteract the vulnerabilities that migrant workers face. The Province’s employer registry, recruiter licensing and proactive enforcement, as well as access to provincially-funded settlement services including language instruction, make Saskatchewan the province with the most support and protections for migrant workers.

Employers of migrant workers in Saskatchewan must register with the Province in order to receive a positive LMIA from the federal government. As of January 2018, there were 3,265 employers registered in accordance with the FWRISA. Just over 350 immigration consultants and foreign worker recruiters have been licensed.

Enforcement Statistics 2014-2017

Employers and Licensees Investigated (Following Tip or Complaint)	500
Employer Audits	406
Employers Suspended	28
Licensee Audits	56
Licensees Suspended	0
Wages Recovered from Audits and Investigations	\$200,678

The Program Integrity Unit (PIU) has suspended 28 employers for violations since the legislation was implemented in 2013. The approval rate of applications for recruiters, immigration consultants and representatives hovers around 70%, indicating that the licensing system weeds out unsuitable candidates. So far, no licensee has been suspended, although many have been audited and some disciplined for infractions. As of January 2018, \$200,678 has been recovered for workers through FWRISA, thanks to PIU audits and investigations. The lack of a public registry of sanctioned employers (as exists in Manitoba) can be considered a shortcoming with regards to transparency and access to information.

Saskatchewan Provincial Nominee Program

Year	Hospitality		Truck Driver	
	Nominations	% of Total	Nominations	% of Total
2014	459	9.5%	127	2.6%
2015	657	11.9%	117	2.1%
2016	174	3.2%	33	0.6%
2017	65	1.8%	16	0.4%

Saskatchewan has prioritized the attraction and retention of newcomers in recent years, giving some migrant workers access to permanent residence via the Saskatchewan Immigrant Nominee Program (SINP). However, among “low-skilled” workers, only truck drivers and some hospitality and food service workers are eligible, and the number of these migrant workers being nominated has plummeted in the last few years, from over 14% of the total in 2015, to just 2.2% in 2017. In 2017 the total number of nominations was 3,671, of which only 81 were workers in “low-skilled” occupations. Saskatchewan should enhance its efforts to fill labour shortages and protect migrant workers by expanding eligibility to other “low-skilled” occupations, and introducing a stream for family and community nominations, so that workers are not dependent on their employers for sponsorship.

Saskatchewan is unique in offering provincially funded services to all migrants, regardless of status. These services include information and referrals, counselling, interpretation, and employment services. Language instruction is delivered by regional colleges in 40 communities as well as online. One shortcoming is that assistance with immigration processes, including the SINP, is not offered, which means that migrant workers must rely on paid immigration consultants and lawyers, despite generally earning low wages. Provincially funded services should include support with immigration processes.

Number of Work Permits Issued	2017
Live-In Caregivers	50
Agricultural Workers	350
Other Temporary Foreign Workers with LMIA	420
Total	820



Canadian Council for Refugees
Conseil canadien pour les réfugiés

May 2018
ccrweb.ca/en/migrant-workers

Provincial Report Card

Manitoba



Legislative Protection of Migrant Workers

A

Manitoba's Worker Recruitment and Protection Act (WRAPA), adopted in 2009, requires employers and recruiters of migrant workers to register with the provincial government, and prohibits the charging of any recruitment fees to workers, with stiff penalties for violations.

Enforcement of Legislative Protections

B

Manitoba has a Special Investigations Unit (SIU) to carry out complaints-based and proactive investigations of workplaces employing the most vulnerable workers. Since WRAPA was implemented, several employers have been ordered to pay wages owing to employees. Repeat offenders have been fined up to \$10,000. The SIU has an anonymous phone line and email address for people to report abuse; however, these are not widely promoted. March 2018 cuts to SIU staff will reduce enforcement activities.

Access to Permanent Residence

A

Migrant workers in "low-skilled" (NOC C and D) occupations have access to the Manitoba Provincial Nominee Program with a job offer, and there is a stream for family and community nominations. A \$500 application fee has recently been applied to program applicants, which may limit access for low-wage earners. Seasonal workers are not eligible, and federal language requirements make the program inaccessible to many workers.

Settlement and Support Services

C

Manitoba does not fund settlement or support services for migrant workers. Manitoba Industry, Training and Employment Services funds four settlement agencies (in addition to employment organizations that migrant workers can access) to provide employment services for which migrant workers are eligible.

Access to Information for Migrant Workers

C

Employment Standards does not systematically provide information to migrant workers, but gives workers information about their rights during workplace investigations. There is an information sheet for farm workers in English, French and Spanish available online, but no other resources specifically for migrant workers. Safe Work Manitoba has a selection of general health and safety resources available online in 18 languages.

Awareness-raising among Employers

A

The Province informs employers of their obligations and the penalties for non-compliance when they register under WRAPA. Public education sessions are available for employer groups on request and online resources are offered. Employers found to be non-compliant receive education and a formal Notice to Comply to avoid repeat offences. If following review an industry is found to be likely to commit infractions, employers in that industry are pre-emptively sent a Notice to Comply.

Access to Healthcare

B

In 2013 the Province extended provincial health coverage to Seasonal Agricultural Workers as soon as they arrive in Manitoba and for the duration of their work permit. Other migrant workers are only eligible for provincial health coverage if they have a work permit of a year or more; they are then covered on arrival. Non-SAWP seasonal workers and others with work permits of under a year must have private insurance provided by the employer.

Manitoba Trail-blazing province still has gaps to fill



In 2009 Manitoba became the first province to implement legislation to improve protections for migrant workers. Along with creating a registry for employers and recruiters, the Province negotiated with the federal government a requirement that employers be approved by the Province before receiving a positive Labour Market Impact Assessment from the Federal Government. This gives Manitoba control and information about employers and their contracts with workers, which enhances enforcement.

The Special Investigations Unit (SIU) continues to proactively inspect workplaces employing vulnerable workers, but March 2018 cuts to staff will unfortunately mean a reduction in activities. In 2015 - 2017, 36 investigations were completed which were related to migrant workers and other newcomers. The SIU found that 52% of employers or recruiters were non-compliant with at least one major provision under the Employment Standards Code or WRAPA, indicating a need for increased enforcement.

Enforcement Statistics 2015-2017

- In 3 workplaces, about \$62,000 was returned to workers who had paid illegal recruitment fees. In two cases the employer had used an unlicensed recruiter; in one case a licensed recruiter charged illegal fees and was stripped of their licence.
- \$20,000 in administrative penalties were paid.
- Cease and desist letters were sent to 22 unlicensed recruiters.

SIU enforcement strategies for non-compliant employers are varied. They start with education and a formal Notice to Comply, and the SIU requires employers to pay retroactive wages to workers as well as recruitment fees that were charged to them. Administrative penalties are applied for repeat non-compliance, and names of businesses that are repeat offenders are published on the Employment Standards website. The SIU focuses on proactive enforcement, but their success in identifying cases of abuse is limited by a lack of resources, and by the reluctance of migrant workers to complain as a result of their precarious status. The Province should commit more resources for enforcement, and should negotiate an open work permit initiative for abused workers with the federal government, as British Columbia has done.

The Manitoba Provincial Nominee Program has brought in a relatively high proportion of nominees in “low-skill” occupations. The family and community stream facilitates family reunification and diminishes the power of the employer over the worker.

Manitoba Provincial Nominee Program

Year	NOC C	NOC D	Total Nominees	Proportion “Low-skill”
2016	1,148	290	5,000	29%
2017	1,484	402	5,000	38%

Manitoba has not funded settlement or support services for migrant workers, although there has been some funding for employment services. The lack of support, combined with inadequate awareness-raising, leaves migrant workers ignorant of their rights and recourses, and counteracts the protections offered by the provincial legislation and the SIU. However, in March 2018 the Province promisingly announced a call for proposals to offer settlement services for newcomers ineligible for federally funded services.

In 2013 Manitoba extended provincial health coverage to workers in the Seasonal Agricultural Workers Program (SAWP). However, sending country governments require SAWP workers to purchase private health insurance. Many SAWP workers do not know the difference between their public and private insurance and lack information about coverage and making claims. As a result they may not seek treatment, or end up paying out of pocket for services that could be covered. The Province should have a proactive awareness-raising strategy to help migrant workers understand how to access healthcare. Manitoba should now extend provincial health coverage to all migrant workers on arrival.

The Workers Compensation Board of Manitoba should consider adopting practices like those of the Ontario Worker Safety and Insurance Board to ensure that migrant workers with work-related injuries and illness have access to care and benefits both in Manitoba and when they return to their home country.

Number of Work Permits Issued	2017
Live-In Caregivers	15
Agricultural Workers	190
Other Temporary Foreign Workers with LMIA	560
Total	765



Provincial Report Card

Ontario



Legislative Protection of Migrant Workers

C

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

C

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

C

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

C

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

B

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

B

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

B

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



Provincial Report Card

Quebec



Legislative Protection of Migrant Workers

C

Quebec relies on its labour standards and occupational health and safety (OHS) legislation to protect migrant workers. Caregivers who live at their employer's home are excluded from workers' compensation protections under the *Act respecting Industrial Accidents and Occupational Diseases*, and agricultural workers are excluded from some Labour Standards provisions including maximum hours and overtime. Legislation enacted in 2014 restricts the rights of agricultural workers to unionize, affecting the majority of migrant workers in the province. In March 2018 amendments to the *Act respecting Labour Standards* were proposed to regulate recruiters and prohibit fees charged to workers.

Enforcement of Legislative Protections

D

The CNESST (Commission for Labour Standards, Pay Equity and Occupation Health and Safety) does complaint-based enforcement. There is some tip-based proactive monitoring of workplaces carried out that does not target, but may impact, migrant workers.

Access to Permanent Residence

B

Since 2016, migrant workers in NOC C occupations are eligible for the regular immigration program for skilled workers. Quebec did not adopt the current federal caregiver streams, introduced in 2014, so only highly skilled health-related caregivers (not "low-skilled" child care workers) are eligible for permanent residence under the Quebec Experience Program (QEP). New immigration regulations proposed in March 2018 would make both the QEP and the regular immigration program open to all skill levels. Applicants would still be subject to high French language requirements.

Settlement and Support Services

D

In general, "low-skilled" migrant workers do not have access to settlement and support services funded by the government, including language instruction.

Access to Information for Migrant Workers

B

The government has produced print resources and a video on labour and human rights, with contact information for the relevant government agencies. These resources are available in French, English and Spanish online, and are distributed to community organizations that work with migrant agricultural workers. The CNESST has a phone line for information, with limited hours of operation; the staff only speak English or French.

Awareness-raising among Employers

C

The CNESST offers information sessions to employers on request, but mostly focuses awareness-raising on employers who have been the subject of a complaint. There is no proactive initiative to inform employers about their responsibilities towards migrant workers. A guide for employers hiring immigrant workers is available online.

Access to Healthcare

B

Seasonal agricultural workers have access to provincial health coverage on arrival, while other migrant workers must have a work permit of at least six months to be eligible for provincial health coverage, and must wait three months to access care. The CNESST covers the salary replacement, health care costs and rehabilitation of migrant workers who return to their country of origin following a work-related illness or injury.

Noteworthy



If passed, the proposed immigration regulations would make Quebec a trail-blazer in using permanent (rather than temporary) migration to meet labour needs across skill levels.

Promising new developments must be matched by real protections



Although Quebec has taken little action in the past five years to address the vulnerable status of migrant workers, some very recent initiatives indicate that the Province is becoming more sensitive to this pressing issue.

In March 2018, Quebec proposed amendments to its labour standards legislation designed to protect migrant workers from predatory recruitment practices by prohibiting fees being charged to workers and introducing a recruiter licensing regime. If adopted and effectively implemented, this would represent a positive step. Recruiters should be required to post a bond that can be used to repay workers if the licensee violates the rules. Migrant workers must be informed about the law and have a venue to make complaints or anonymous tips.

Quebec also needs an employer registry and proactive enforcement of legislation to address abuse. Reactive enforcement does not work in the case of migrant workers who are reluctant to complain for fear of losing their job and their status in Quebec. Although legislation prohibits reprisals against workers asserting their rights, no effective mechanism is in place to prevent employers from firing and sending home workers who complain, or who are sick or injured.

The CNESST’s recently published strategic plan prioritizes awareness-raising of certain targeted workers including migrant workers on their labour rights and recourses. This is a laudable step, but without additional protections, migrant workers remain unlikely to seek recourse.

After a 10-year struggle that saw farm workers win the right to unionize in 2010, Quebec took a step backwards with the introduction in 2014 of new legislation that again restricts the rights of agricultural workers to unionize. The vast majority of low-wage migrant workers in Quebec are agricultural workers. The exclusion of domestic workers and caregivers who live at their employer’s home from workers’ compensation protections has been a source of considerable frustration within the caregiver community, which has campaigned for inclusion for more than a decade.

The new immigration regulations proposed in March 2018 would make all migrant workers, regardless of skill level, eligible for both the regular economic immigration program and the Quebec Experience Program. This is a very positive and potentially trail-blazing step towards using permanent immigration as a tool to respond to the labour needs across skill levels, and to eliminate the vulnerability experienced by migrant workers due to their precarious immigration status. However, high language requirements would exclude many “low-skilled” workers.

Quebec manages all government funding for newcomer settlement services, yet provides virtually no support for migrant workers. The need for support is urgent in order to reduce migrant worker vulnerability and increase access to justice; Quebec must increase funding for settlement services and make migrant workers eligible for these services including language training, as other provinces have done. Access to language training and settlement services would also facilitate access to provincial immigration programs.

Many agricultural workers face language and transportation challenges accessing healthcare, and employers sometimes retain their health cards so they are unable seek care independently. The CNESST should provide information about navigating the system to all migrant workers, and inform employers of their responsibilities towards migrant workers. In late 2017 the CNESST introduced a policy to ensure that migrant workers who have had a work-related injury or illness can access adequate healthcare and rehabilitation services in their home country, a positive step.

Number of Work Permits Issued	2017
Live-in Caregivers	145
Agricultural Workers	10,210
Other Temporary Foreign Workers with LMIA	2,700
Total	13,055



Provincial Report Card

New Brunswick



Legislative Protection of Migrant Workers

C

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

C

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

B

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

B

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

C

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

C

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

B

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



Provincial Report Card

Nova Scotia



Legislative Protection of Migrant Workers

A

Since its implementation in 2013, Nova Scotia's *Worker Recruitment and Protection Act* (WRPA) requires employers to register with the Province, and recruiters must obtain a licence and provide a \$5000 deposit that will be used to reimburse any migrant worker found to have been charged a fee. WRPA prohibits charging recruitment fees to foreign workers or confiscating their personal documents, and requires employers to honour the terms and conditions promised at the time of recruitment. Licensed recruiters are publicly listed online.

Enforcement of Legislative Protections

?*

The Labour Standards Division reports carrying out proactive enforcement of WRPA with registered employers, including conducting financial audits and monitoring compliance with the terms and conditions of the Labour Market Impact Assessment. At least one abusive employer has been suspended (the Province advocated with the federal government to secure open work permits for the affected workers).

* The Province did not provide statistics or details on enforcement activities (as other provinces did), so we were unable to assign a grade on this subject.

Access to Permanent Residence

B

"Low-skilled" (NOC C&D) migrant workers are eligible for Nova Scotia's Provincial Nominee Program (PNP) if they are high school graduates and have worked for at least six months for the employer that is supporting their application. Only a small proportion of migrant workers qualify because many in these occupations are seasonal workers with shorter work permits who are thus not eligible; federal language requirements are another barrier. Migrant workers in NOC C occupations with a full-time, non-seasonal, permanent job offer from an eligible employer can access the Atlantic Immigration Pilot Program (AIPP).

Settlement and Support Services

C

The Province funds the largest settlement organization to run a migrant worker program offering information and support on workers' rights, online webinars, and mobile service provision. Another settlement organization outside Halifax is funded to provide information to migrant workers. Access remains a challenge for workers in rural areas, at isolated workplaces, with language barriers, and without internet access. Only migrant workers who have been nominated for the PNP or the AIPP are eligible for language instruction.

Access to Information for Migrant Workers

C

The Labour Standards Division presents on worker rights at two annual events in Halifax, coordinated by the settlement organization's migrant worker program. The presentations are made available online, as is a comprehensive fact sheet for foreign workers, in English only.

Awareness-raising among Employers

A

Labour Standards provides information to employers on their responsibilities regarding migrant workers when they register with the Province, as well as through presentations to employer associations, and during proactive compliance activities. Factsheets are available online for employers and recruiters.

Access to Healthcare

D

Migrant workers are only eligible for provincial health coverage if they have a work permit of a year or more. They are then covered on arrival. Seasonal workers and others with work permits of under a year must be covered by private insurance provided by the employer.

Ensuring legislative protections realize their potential

Nova Scotia’s protections for migrant workers are the most advanced among the Atlantic Provinces. The Province requires employers to register, and a provincial registration certificate is a prerequisite for a positive Labour Market Impact Assessment from the federal government. Recruiters must be registered as a lawyer or an immigration consultant, and provide a \$5000 deposit that will be used to reimburse any migrant worker found to have been charged a fee. Licensed recruiters are listed on a public government web page. The Province reports that applications from employers and recruiters have been refused over concerns about the applicants’ willingness or capacity to comply with Labour Standards legislation or WRPA, including concerns based on previous violations.

The Province unfortunately did not provide details on enforcement activities, so it is impossible to know to what extent WRPA is being proactively enforced. However, it is clear that abuses persist. The Province should consider whether resources for proactive enforcement of WRPA are sufficient, and efforts should include systematic on-site awareness-raising among all migrant workers in the province about their rights and recourses, and where they can find support if they are in a situation of abuse. Nova Scotia should negotiate with the federal government an open work permit initiative for abused workers, similar to the one implemented in British Columbia.

Provincial funding for support services to migrant workers is a very positive step, but capacity is stretched, and there are difficulties in reaching migrant workers in rural areas and isolated workplaces. Funding should be increased so that current programming can be expanded, and the Province should consider advocating that the federal government make migrant workers eligible for IRCC-funded settlement services, including language instruction.

Although numbers of nominees becoming permanent residents under the PNP have increased in recent years, the proportion of nominees in “low-skilled” occupations has decreased. However, the Atlantic Immigration Pilot Program presents a new pathway for some migrant workers. In 2017, of the 199 nominees, 61 were in “low-skilled” NOC C occupations, representing over 30%. The Province should consider advocating with the federal government to remove PNP restrictions on seasonal workers and to lower language requirements that can be prohibitive. It should also consider introducing a family and community sponsorship stream as in Manitoba, in which nominees are not dependent on their employer for sponsorship.

Whether covered by public or private health insurance, migrant workers often lack information on how to access health care and make a claim, and on services covered, especially when they are located in rural areas or isolated workplaces. Some employers retain workers’ health insurance cards, or don’t provide information about the health services workers are entitled to, and there have been reports of employers repatriating injured or sick workers. The Province should provide provincial health insurance coverage on arrival to all migrant workers, regardless of length of work permit, as some other provinces do. This step should be accompanied by proactive provision of information on how to navigate the provincial healthcare system. Changes recently announced by Ontario’s Worker Safety and Insurance Board are an interesting model for meaningful healthcare access for migrant workers who have work-related injuries or illness.

Nova Scotia should also consider introducing an anti-reprisal mechanism in WRPA to ensure that workers can’t be repatriated without just cause.

Nova Scotia Provincial Nominee Program				
Year	Total Nominees	NOC C	NOC D	Proportion “Low-skill”
2015	717	122	20	20%
2016	1,350	134	9	11%
2017	1,383	134	10	10%

Number of Work Permits Issued	2017
Live-in Caregivers	-
Agricultural Workers	905
Other Temporary Foreign Workers with LMIA	715
Total	1,620



Provincial Report Card

Prince Edward Island



Legislative Protection of Migrant Workers

D

The PEI government relies on its Employment Standards Act (ESA), which does not address the vulnerable situation of migrant workers, and excludes farm workers from most protections.

Enforcement of Legislative Protections

C

Enforcement activities in PEI rely on complaints, although the Employment Standards officer does proactive site visits with known employers which may trigger audits. The province is implementing an information-sharing agreement with the federal government to facilitate enforcement, but this does not always resolve the problem of knowing where workers are in a timely way.

Access to Permanent Residence

A

The PEI Provincial Nominee Program Critical Worker stream is open to “low-skilled” (NOC C&D) migrant workers. NOC C workers are also eligible for the Atlantic Immigration Pilot Program. However, federal restrictions on the eligibility of seasonal workers and federally imposed language requirements make the program inaccessible to many migrant workers in PEI.

Settlement and Support Services

C

The Province has funded some settlement services for migrant workers since 2013. One person at the main settlement organization provides settlement services to migrant workers across the island on a part-time basis, but without sufficient capacity to respond to isolated workers and those who don't speak English (unless they provide their own interpreter). The Women's Secretariat funds some outreach and support services for migrant workers via a community organization. The Province does not fund language training.

Access to Information for Migrant Workers

C

The Employment Standards office has information posters available in nine languages with general information about key protections. The posters are available online and have been distributed to known work sites and the two organizations that offer support to migrant workers. There are no materials from the Province available for agricultural workers not covered by the ESA.

Awareness-raising among Employers

B

Employment Standards staff visit work sites known to hire migrant workers to ensure employers are aware of their obligations under the ESA, and to distribute the above-mentioned information posters. They target the fish and seafood processing industry because they know the location of these workplaces.

Access to Healthcare

C

Migrant workers only receive provincial health coverage if their work permit is valid for more than six months. This excludes the many seasonal workers with six month work permits. Workers with a renewable work permit are also not covered while they wait for renewal.

Prince Edward Island Still a long way to go



Prince Edward Island has taken some tangible steps to improve support and access to permanent status for migrant workers since 2013. However, there are still serious gaps in protection and support.

In recent years the Province has negotiated an information-sharing agreement with the federal government that is in the process of being implemented. Efficient information-sharing can help the Province know where migrant workers are employed, thus facilitating distribution of information on worker rights and inspections of working conditions. Such agreements are not always timely or efficient however, so the Province should introduce legislative and enforcement measures such as those implemented in Nova Scotia and the Prairie provinces. Migrant worker rights can be better protected through legislation that regulates employers and recruiters, mandates proactive enforcement and administrative penalties, and gives the Province control over who can employ migrant workers.

Agricultural workers are excluded from portions of the *Employment Standards Act*, leaving the many migrant agricultural workers in PEI unprotected. PEI should expand the rights of agricultural workers under the Act.

While funding settlement services at the main organization on the Island has been a positive step, the capacity is limited, and more needs to be done to support the organizations doing this work. It is positive that the province is engaged in advocating for the federal government to expand eligibility for federally-funded settlement services to migrant workers.

PEI has stood out in its promotion of permanent residence for migrant workers. In the two streams of the PEI PNP that are open to “low-skilled” (NOC C&D) migrant workers, these workers accounted for 31% of all nominees in 2017. NOC C workers are also eligible for the Atlantic Immigration Pilot Project (AIPP). The Province should fund language instruction for migrant workers to facilitate their access to these programs. PEI should consider advocating with the federal government to lower language requirements that are prohibitive for workers who don’t have access to language training, and to remove restrictions on seasonal

workers. The Province should also consider introducing a family and community sponsorship stream as in Manitoba, in which nominees are not dependent on their employer for sponsorship.

Migrant workers in PEI lack information on how to access health care services to which they are entitled, whether public or private, what services are covered and how to make a claim. Private health insurance is not accepted up-front by doctors, hospitals or pharmacies, so workers without provincial health coverage must pre-pay to get health care, which is impossible for most of these low-wage workers. The province should provide provincial health insurance coverage to all migrant workers from the time of their arrival, as some provinces do, and while workers wait for their permits to be renewed.

Health PEI has produced materials in several languages to help inform migrant workers, but it is reported that these materials aren’t reaching workers. Some employers retain workers’ health insurance cards, or don’t provide information about the private or provincial health services workers are entitled to. PEI must do more to ensure workers have real information on and access to healthcare services.

The problem of exploitative recruitment practices in Canada and in the country of origin remains very present, and the Province and the Federal Government must work together to address this issue.

Number of Work Permits Issued	2017
Live-In Caregivers	0
Agricultural Workers	55
Other Temporary Foreign Workers with LMIA	560
Total	615





Legislative Protection of Migrant Workers

D

The Newfoundland and Labrador government relies on its *Labour Standards Act*, which has shortcomings with regards to migrant workers. There is no legislation that addresses the vulnerabilities and challenges specific to migrant workers.

Enforcement of Legislative Protections

C

Labour Standards legislation is generally enforced reactively, when a complaint is received. In the last five years the Province has introduced proactive workplace visits carried out randomly or when a tip is received. These visits have not generally targeted workplaces that employ migrant workers, but in early 2018 a Labour Standards Officer was carrying out preventive interventions with a focus on employers of migrant workers. Visits focus on education and awareness-raising, but may result in an investigation.

Access to Permanent Residence

B

Workers in “low-skilled” (NOC C&D) occupations are eligible for the Provincial Nominee Program, and those in NOC C occupations are eligible for the Atlantic Immigration Pilot Program (AIPP). The Office of Immigration and Multiculturalism (OIM) works with applicants and their employers to ensure that economic establishment requirements are met, for example by encouraging employers to pay higher wages, provide subsidized or free accommodations, or pay for travel for family members settling in the province. The OIM also facilitates access by providing “conditional nominations” to workers who require additional language training to meet federal requirements. Seasonal workers are not eligible.

Settlement and Support Services

C

The Province funds settlement services including language instruction for Provincial Nominees as well as those nominated under the AIPP. All other migrant workers are excluded from these services.

Access to Information for Migrant Workers

D

The Labour Standards Division has a factsheet with general Labour Standards information, available online in several languages (but not very easy to find), and a guide to Employment Standards in English and French. There is nothing specific for migrant workers.

Awareness-raising among Employers

C

The Labour Standards Division offers information sessions and an online employer toolkit with general information on responsibilities in the workplace, but the particular situation of migrant workers is not addressed. Preventive workplace visits by the Province are focused on awareness-raising. The Province has partnered with a settlement agency to provide cultural competency training to employers interested in nominating workers for permanent residence.

Access to Healthcare

D

Migrant workers are only eligible for provincial health coverage if they have a work permit of a year or more. They are then covered on arrival. Workers with shorter permits must be covered by private insurance provided by the employer.

Newfoundland and Labrador Immigration, yes! But what about protections?



EVALUATING
MIGRANT WORKER
RIGHTS IN CANADA
2018

In the last five years, Newfoundland and Labrador has made a concerted effort to attract more migrant workers to stay on as permanent immigrants. However, these efforts have not been accompanied by better protections for migrant workers, who are vulnerable to abuse due to their closed work permits and temporary status.

The Province has neither legislative nor significant enforcement initiatives that target migrant workers. The Labour Standards Division relies on complaints to do reactive enforcement, but migrant workers are unlikely to complain for fear of losing their job and thus their status in Canada. The only proactive initiative is the preventive workplace visits that are focused on awareness-raising of employers and workers regarding rights and responsibilities, but this initiative is for the most part not focused on employers of migrant workers. The Province reports that if violations become evident or are suspected during a visit, officers will take steps to investigate and enforce Labour Standards. Newfoundland and Labrador should look to Nova Scotia and other provinces that have implemented legislation and enforcement mechanisms to ensure the rights of migrant workers are protected.

The Office of Immigration and Multiculturalism reports monitoring federal listings of employers who have received positive Labour Market Impact Assessments in order to contact employers of migrant workers, to encourage them to support their pathway to permanent residence. While encouragement of permanent immigration is laudable, the Province should be using the same federal government data to carry out proactive enforcement and to systematically provide migrant workers with information about their rights.

The Province funds settlement services and language instruction for migrant workers applying for either the Provincial Nominee Program or the Atlantic Immigration Pilot Program. The Province should view service provision not only as an investment in future permanent residents, but also as a necessary support to reduce the vulnerability of those who are not eligible for immigration. The Province should advocate for the federal government to expand eligibility for federally funded settlement services to migrant workers, and in the meantime it should step in to fund substantial support services and language instruction for all migrant workers in Newfoundland and Labrador.

As it continues to promote permanent immigration of migrant workers, the Province should consider introducing a family and community sponsorship stream as in Manitoba, in which nominees are not dependent on their employer for sponsorship.

To ensure access to healthcare, the Province should provide provincial health coverage on arrival to all migrant workers, regardless of length of work permit, and provide information materials systematically to workers on how to navigate the system.

Number of Work Permits Issued	2017
Live-in Caregivers	10
Agricultural Workers	20
Other Temporary Foreign Workers with LMIA	835
Total	865



Canadian Council for Refugees
Conseil canadien pour les réfugiés

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ccrweb.ca/en/migrant-workers