



Report Card

Migrant workers in British Columbia

SUBJECT	GRADE	COMMENTS
Legislative protection of migrant workers	D	The BC government relies on its Employment Standards Act, which has serious shortcomings with regards to migrant workers. There is no legislation that addresses migrant worker-specific issues.
Enforcement of Employment Standards and related legislation	C	The Employment Standards Branch is responsible for taking action against abusive employers and recruiters. There are some proactive initiatives such as the “farm compliance team” that conducts site visits and payroll audits. However, insufficient resources are allocated for enforcement, and efforts are limited by a lack of information on the whereabouts of migrant workers.
Access to permanent residence	C	Migrant workers in certain low-skilled occupations have access to the BC Provincial Nominee Program. These include tourism, hospitality, food processing and long-haul truck drivers, and those working in the province’s Northeast Development Region. Many of those who are eligible do not meet the level of income required, restricting access.
Welcoming migrant workers (settlement and support services)	C	The BC government funds information and referral services for migrant workers who have applied for the Provincial Nominee Program. Migrant workers not being nominated by their employer don’t receive provincially funded services.
Access to information for migrant workers	C	The province has produced a fact sheet for migrant workers on Employment Standards available online in several languages. The government has an outreach program focusing on key industries, but it is not clear that information on rights and recourses is reaching migrant workers. In the past employers were required to post information on workers’ rights visibly in the workplace, but the government has revoked this requirement.
Awareness raising of responsibilities among employers	B-	The province has made information available online for employers about obligations towards migrant workers. Employment Standards Branch staff conducts educational programs for some employers and employer associations.
Access to healthcare services	B	Migrant workers in the low-skilled streams are covered by provincial health care after a three-month waiting period, during which their employers must provide private health insurance.
Noteworthy	★	BC is the only province to have had a pilot project offering open work permits to spouses, partners and working-age dependants of migrant workers in the low-skilled streams. Unfortunately as of February 2013 migrant workers in the low-skilled streams are no longer eligible.

British Columbia and Migrant Workers: Still a long way to go

British Columbia is second only to Ontario in the number of Temporary Foreign Workers hosted, with 74,216 workers in BC at the end of 2012, representing 1.7% of the overall population. Given the large numbers, it is particularly important that the province commit to protecting migrant workers' rights.

Migrant workers in BC are protected by provincial labour legislation, including the Employment Standards Act and Regulations and the Occupational Health and Safety Regulations. BC labour legislation fails to take into account the vulnerable situation of migrant workers. While the Act prohibits charging a fee to a person seeking employment for finding a job or providing information about jobs available to them, recruitment agencies are permitted to charge migrant workers for a variety of other services, opening the door to recruitment fees disguised as other "immigration services". Furthermore, penalties for infractions are minimal, and employers found guilty of breaking the rules are only required to reimburse the worker for the lost wages; there is thus no financial incentive for employers to follow the law.

Insufficient resources are allocated to the Employment Standards Branch for enforcement, so enforcement remains largely complaint-based. Migrant workers are not being systematically made aware of their rights, and the Branch doesn't provide translation or interpretation for those who face language barriers. Enforcement is also impeded by a lack of information on the whereabouts of migrant workers. The gaps in the system were highlighted by a recent class action suit by a group of workers at Denny's restaurants. The BC Supreme Court approved a settlement in March 2013: the decision addresses the workers' vulnerability to pressure from their employer to withdraw their complaints.

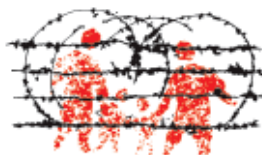
BC could begin to solve these problems by legislating a registration regime for employers and recruiters of migrant workers and imposing more severe consequences for abuses, as has been done in Manitoba.

The BC Provincial Nominee Program is open to certain migrant workers in the low-skilled occupations. However applicants must have a level of income that is higher than the pay expected for these lower-skilled jobs.

The issues facing migrant workers in BC call out for action to be taken, and to this end the BC Employment Standards Coalition has developed a comprehensive model legislation for the government's consideration, with a series of recommendations to improve support and protections for migrant workers, and to hold employers and recruiters accountable for their practices.

NUMBER OF TEMPORARY FOREIGN WORKERS IN BRITISH COLUMBIA

(ON DEC. 1)	2006	2011	2012
	35,072	69,978	74,216



CANADIAN COUNCIL FOR REFUGEES
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MAY 2013