

Employment Standards for Migrant Workers in British Columbia

This info sheet provides useful information and resources on the basic employment standards and rights of migrant workers in British Columbia, including the process of filing an employment standards complaint.

Introduction

In British Columbia, the Employment Standards Act and Regulation sets the minimum standards which apply to most workplaces¹.

Many of the employment conditions that apply to specific Temporary Foreign Worker (TFW) Program streams, if applicable, are set out in the worker's employment contract, and in the appropriate provincial legislation. Workers employed by a [business or industry that is federally regulated](#) should consult [Federal Labour Standards](#).

Wages

Wages offered to temporary foreign workers should be similar to wages paid to Canadian and permanent resident employees hired for the same job and work location, and with similar skills and years of experience.

For the purpose of the Temporary Foreign Worker Program, employers must pay the prevailing wage which is defined as the highest of either:

- the median wage on [Job Bank](#)
- the wage that is within the wage range that you are paying your current employees hired for the same job and work location, and with the same skills and years of experience²

Wage Deductions: An employer may make deductions to wages as required by law (e.g. provincial and federal income taxes, Canada Pension Plan (CPP) contributions, Employment Insurance (EI) Premiums, Union dues).³

For the Seasonal Agricultural Worker Program (SAWP) stream, the employer must provide living accommodation to the employee and, in BC only, may deduct [\\$5.36 per working day for workers from Mexico](#) and [\\$6.20 for workers from participating Caribbean countries](#), not exceeding \$826 per year for this expense. Employers of SAWP workers may also make health insurance deductions for non-occupational medical coverage as per the appropriate SAWP contract. Workers should consult their contract for other potential deductions.

Payment of wages: Wages must be paid in Canadian currency by cheque, draft, money order or direct deposit to an employer's bank account.

Employers must provide a written or electronic pay statement each payday that shows all details about hours worked, rate of pay, earnings and deductions.

Working hours and breaks

Most working hour rules are based on an 8 hour day and 40-hour work week³. Workers are entitled to at least one 30-minute break if worked for 5 hours in a row. In addition to the 30-minute break, SAWP workers are entitled to 2 rest periods of 10 minutes each.

Most workers are entitled to overtime pay if they work for more than 8 hours per day or more than 40 hours in a week. However, farmworkers in BC do not receive overtime or statutory holiday pay.

Employment terms for SAWP⁴ workers shall be not less than 240 hours worked in a period of 6 weeks or less, nor longer than eight months. When no actual work is possible for any reason, SAWP workers shall receive an advance to cover personal expenses. For workers in the Agricultural Stream, work permits cannot exceed 2 years of employment.

EMPLOYERS CANNOT

Charge a fee	To a migrant worker for: <ol style="list-style-type: none"> Hiring costs, recruitment or Information about prospective jobs
Deduct from wages	Any portion of business costs incurred: <ol style="list-style-type: none"> To bring a migrant worker to Canada Due to theft, damage, poor quality of work or failure to pay by customers
If employment ends	Force a migrant worker to return to their home country before their Temporary Resident Visa or equivalent travel document expires. Note: SAWP workers sign a contract stating that they will return to their home country at the end of their contract.

References

¹ BC Employment Standards Act and Regulation. Available at <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards>

² Program Requirements for Low-Wage Positions. Available at <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage/low-requirements.html#h2.7>

³ Getting paid for work. Deductions. Available at <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/wages/deductions>

⁴ Employment contracts for Temporary Foreign Agricultural Workers. Available at <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/>

Termination

An employer may terminate an employee upon giving the required written notice or pay in lieu of notice. An employee who voluntarily quits is not entitled to written notice of termination or compensation for length of service.

See more details on [Quitting, Getting Fired or Laid Off](#).

SAWP workers may transfer to work to another farm under certain conditions, which are outlined in their appropriate employment contract.

Open work permits for vulnerable workers

Migrant workers in Canada on employer-specific work permits may be eligible to receive an open work permit if they are experiencing or are at risk of abuse in their employment in Canada.

Abuse consists in any of the following:

- physical abuse, including assault and forcible confinement
- sexual abuse, including sexual contact without consent
- psychological abuse, including threats and intimidation
- financial abuse, including fraud and extortion

See eligibility and how to apply for an [open work permit in situations of abuse](#).

File a complaint

In the case of a dispute between a worker and an employer, it is best to try to resolve it with dialogue. If this is not possible, a complaint can be formally filed.

A worker can file a complaint with BC Labour Standards:

- Within 6 months of the problem taking place (if they still work for the same employer) or
- Within 6 months of the day their employment ends

Employers cannot **punish, deport** or fire a worker for filing a complaint.

Filing a complaint is free and is a way to protect the rights of the worker.

The process of filing a complaint⁵

Complaints can be filed by filling out the complaint form from the Employment Standards Branch.

- Online by filing the [online complaint form](#) or
- Obtaining a hard copy at a [BC Employment Standards Branch office](#) or
- Requesting a hard copy by calling the BC Employment Standards Information Line at 1 833 236-3700 or [send a message online](#)

The complaint form can then be sent along with any evidence to the Employment Standards Branch.

An official from the Branch will contact the worker and the employer and will make a decision based on the law.

Migrant workers under the Temporary Foreign Worker Program can also file an anonymous complaint using the [TFW Program online reporting tool](#) or call the toll free confidential tip line at 1-866-602-9448.

For more information visit: <https://www.canada.ca/en/employment-social-development/services/foreign-workers/fraud.html>

Stay safe!

It is important that workers keep track of their working hours. Employment contracts, pay stubs and any other important documents should be kept in a safe place. Employers should also keep a copy of these records on file.

Workers must report any work accident to their employer, WorkSafeBC and the consular within 48 hours. The employer must provide transportation to the hospital or clinic.

Remember that employment contracts outline additional employment standards, but a contract can never offer a standard that is below that outlined in Provincial or Federal laws.

Further Resources

- [BC Settlement & Integration Services](#) (BCSIS) Labour Market Supports for Newcomers
- [Forms & Resources](#) on the Employment Standards
- Occupational Health and Safety Regulation including reporting bullying and harassment [WorkSafeBC](#)
- [Labour Relations Board of BC](#) for labour matters related to unionized workplaces
- Temporary Foreign Workers rights under the [Temporary Foreign Worker Program](#)

References

⁵ Employment Standards - Make a Complaint. Available at: <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/complaint-process>