

22 Farm Labour

Resource Kit for Nova Scotia Farmers

There are 5 areas of the Labour Standards Code where the rules are different for farm workers than most other workers:

- the requirement to pay minimum wage for farm workers who are under 16 or who harvest fruit, vegetables or tobacco on a piecework basis;
- the requirement to pay overtime;
- holidays;
- day of rest;
- call in pay.

Farm workers are defined as follows:

Persons engaged in work on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, Christmas trees, Christmas wreaths, maple products, honey, tobacco, pigs, cattle, sheep, poultry or animal furs.

Note: This definition would also include employees of greenhouses which produce the products mentioned above.

1. Minimum Wage

- Farm workers under the age of 16 are not required to be paid minimum wage.
- Farm workers who are paid on a piece work basis for work directly related to the harvesting of fruit, vegetables and tobacco are not required to be paid minimum wage.

Most other employees covered under the Code, including other farm workers, must receive pay at least equal to the minimum wage.

2. Overtime Pay

Employers of farm workers are not required to pay the workers overtime pay.

3. Holidays

Employers of farm workers are not required to give the workers holidays or holiday pay.

4. Day of Rest

Employers of farm workers are not required to give the workers at least one day off in seven.

5. Call in Pay

The requirement to pay employees at least three hours at the minimum wage if they are called in outside of regular working hours does not apply to farm workers.

Processing Employees:

Workers involved in primary processing of agricultural products (not including meat), such as processing apples to make apple juice, are exempt from the requirement to pay hours over 48 in one week at 1½ times the employee's regular rate of pay. Employers must, however, ensure that primary processing employees are paid at least 1½ times the minimum wage for any hours worked over 48 in one week.

All other provisions of the Code apply to primary agricultural processing.

A primary agricultural processor is:

Any person whose work is directly related to processing agricultural product in its raw form. For example, employees who work on a farm to load/unload raw vegetables, employees who transport raw vegetables to a plant and employees who work at a plant that transforms the raw product into a more stable form. This definition does not include meat processing.

Hiring Children to Work on Farms:

It is against the law to pay wages to a child under the age of 14 to do work that:

- is likely to be unwholesome or harmful to the child's health or normal development;
- is likely to keep the child out of school or make it hard for the child to learn at school.

It is against the law to employ a child under 14 to do work:

- for more than 8 hours a day;
- for more than 3 hours on a school day unless a certificate has been issued under the Education Act to allow the child to work;

- for any time during the day when that time plus the time the child is in school adds up to more than 8 hours;
- between the hours of 10 pm of any day and 6 am of the next day.

Harvest Connections Program

The Harvest Connections Program allows recipients of Income Assistance (IA) to earn up to \$3,000 per family per year harvesting agricultural crops, including Christmas trees, without it affecting the amount of their IA benefit. Program participants may also work producing Christmas wreaths. For more information, see:

http://www.gov.ns.ca/coms/employment/income_assistance/HarvestConnectionProgram.html or call Employment Support Services, Department of Community Services: 902-424-4329.

Migrant Farm Workers

Some Nova Scotia farmers, especially fruit and vegetable growers, have experienced problems finding farm workers, especially during the harvest period. They have turned to the federal Seasonal Agricultural Worker Program (SAWP) to address this problem. Under SAWP, workers from Mexico and Caribbean countries are allowed to come to Canada on a temporary basis to do farm work. The labour standards for migrant workers (pay, hours of work, benefits) are the same as for Canadian workers. In addition, the employer must pay a portion of the workers' travel costs to Canada and provide free housing, as well as other costs that are not associated with hiring local workers.

For more information on the Seasonal Agricultural Worker Program, see: http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/sawp.shtml or call Service Canada at 1-800-622-6232.

[Note: Most of the information in this fact sheet was excerpted from two fact sheets produced by the Nova Scotia Department of Labour and Advanced Education: Farm Worker Exemptions and Employment of Children and used with permission, June 2010.]