

# **Guide to Labor and Employment Laws for Migrant Workers**

**in North America**

**Resource Id# 5713**

**Guide to Labor and Employment Laws for Migrant  
Workers in North America**



Commission for Labor Cooperation

# Preface

The Commission for Labor Cooperation is an international organization created by Canada, Mexico, and the United States under the North American Agreement on Labor Cooperation (NAALC). Along with an agreement on environmental cooperation, the NAALC is one of two supplementary or "side" agreements to the North American Free Trade Agreement (NAFTA). The NAFTA and the two side agreements came into force on January 1, 1994. The NAALC is the first international labor agreement linked to a trade treaty. It creates an international discipline on enforcement of domestic labor law, a major innovation in international labor affairs.

The Agreement provided for the establishment of a distinct organizational structure for implementation. It created the Commission for Labor Cooperation, headed by a Council of Ministers made up of the cabinet-level minister or secretary responsible for labor matters in each nation, and an international Secretariat to support the Council. The NAALC also provided that each government establish a National Administrative Office (NAO) within its department or ministry of labor to receive communications from the public in that country, to provide information, and to facilitate participation under the Agreement.

In 1998, three public communications were submitted to the Mexican NAO. All three communications (designated Mexican NAO 9801, 9802, and 9803) dealt with the labor rights of migrant workers in the United States and the effective enforcement of those rights. Among the issues of concern were the freedom of association, the right to collective bargaining, the enforcement of occupational health and safety laws and minimum employment standards, the prevention of racial discrimination in employment, and equal protection of migrant workers.

On May 18, 2000, the U.S. Secretary of Labor and the Mexican Secretary of Labor and Social Welfare entered into a ministerial agreement regarding the three public communications. The Canadian Minister of Labour signed the agreement on July 6, 2000.

The present guide was prepared by the Secretariat as part of the action plan included in the ministerial agreement. Other elements of the action plan included government-to-government meetings of U.S. and Mexican government officials to discuss the issues arising in the three public communications, public outreach sessions in the United States to educate migrant workers about their rights in the workplace, and public forums regarding agricultural workers' issues organized by the U.S. NAO in Yakima, Washington, and Augusta, Maine.

# Introduction

Migrant workers are one of the threads that hold together the tapestry we call North America. Shuttling back and forth across the real and virtual borders of Canada, Mexico, and the United States and beyond, migrant workers can be found in almost every sector of the North American economy. Migrant workers pick the tomatoes for our salads, sew the clothes that keep us warm in the winter and cool in the summer, chop sugar cane so we can sweeten our coffee, drive the taxis that rush pregnant women to the hospital, program the cell phone networks that allow us to call our loved ones, clean our offices, build our homes, and transport our goods from one place to another — to name just a few examples.

More than most other groups of workers, migrant workers need accurate, accessible information about their rights and responsibilities in the workplace. This is especially the case when a worker is from a country that has different laws and agencies, speaks a different language, and does not know where to start.

The *Guide to Labor and Employment Laws for Migrant Workers in North America* is the first comprehensive clear-language guide to labor and employment laws in North America. It is designed as a tool to meet migrant workers' need for accurate and accessible information about their rights and responsibilities in the workplace and where to go to enforce their rights. It is designed to be versatile, practical, and, above all, useful to migrant workers and to the people who work directly with them on a day-to-day basis.

Written in a question-and-answer style, the guide answers questions about almost every aspect of the workplace relationship in Canada, Mexico, and the United States. The subjects covered include:

- collective labor relations
- freedom from forced labor
- rules for working youths
- minimum wages and hours of work
- compensation during periods of unemployment
- protection from workplace discrimination and right to equal pay for equal work
- rights of pregnant workers
- rules regarding workplace safety
- rules regarding pesticide use
- compensation for on-the-job injuries
- retirement and other pension programs
- disability and health care

In addition to addressing questions about these basic areas of the workplace relationship, the guide has a number of additional features.

Its primary purpose is to inform migrant workers from foreign countries whether they are covered by a particular area of labor and employment law, or eligible for particular public benefits, based on their visa status.

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Canada

**Federal industries subject to the *Canada Labour Code* include:**

- industries that operate across provincial and national borders (bus operations, trucking, pipelines, ferries, shipping, etc.);
- air transport, aircraft and airports;
- telecommunications (radio and TV broadcasting, telephone and cable systems);
- banks;
- works declared by Parliament to be for the general advantage of Canada (e.g., grain elevators, uranium mining and processing);
- most federal Crown corporations.

**Where do I go if I believe my employer has treated me unfairly because of my sex or race or other qualities I have that make me different?**

You can file a complaint with the human rights commission in the province where you are working. (If you work in British Columbia, the complaint must be filed directly with the Human Rights Tribunal.) There is a federal Human Rights Commission, but that commission covers only federally regulated industries.

**What does a human rights commission do in Canada?**

- In Canada, provincial human rights offices accept employment discrimination complaints.
- Canadian human rights offices also accept complaints about housing discrimination and civil rights violations.

For more information, see *Guide to Employment Discrimination Laws in Canada* and *Women's Guide to Pregnancy on the Job in Canada*.

You can ask a legal aid office for help even if you do not have a valid work permit.

**What can I do if my employer does not pay me the minimum wage or overtime?**

You can file a complaint with the employment or labour standards office in the province where you are working.

For more information and for the phone number of the employment or labour standards office in the province where you are working, see *Guide to Minimum Employment Standards, Pay Deductions and Employment Insurance in Canada*.



Every province and territory has its own minimum wage.

Your employer must pay you the minimum wage even if you do not have a valid work permit.

For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Employment Insurance in Canada*.

**Farm worker rights**

- Farm workers have different rights from other workers in many Canadian provinces.
- For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Employment Insurance in Canada*.
- Farm workers can file employment discrimination complaints in every province.

**What can I do if my employer does not pay me for all my work or does not pay me at all?**

You can file a complaint with the employment or labour standards office in the province where you are working.

Your employer has to pay you. You can complain even if you do not have a valid work permit.

For more information, see *Guide to Laws Prohibiting Forced Labour in Canada*.

### **Where do I go if I want someone to explain the law to me and help me with my case?**

There are "legal aid" offices in every province that provide legal services to low-income people. If lawyers and staff in the legal aid office cannot help you, they can refer you to someone who can.

#### **Beware of traffickers**

- It is illegal for a person to tell you that you will get a good job in Canada and then make you sell sex instead.
- It is illegal for a person to take away your passport to make you work.
- It is illegal for a person to threaten you with violence to make you work.
- A person who does these things to you can be sent to prison.

#### **Housing**

- The law does not require employers to provide housing for workers in Canada.
- If room and board are provided to the worker, the employer may deduct part of the cost from the employee's wages. There is a limit on how much can be deducted for each meal and each day or week for housing.
- The exception is if you are a temporary farm worker in the CCMSAWP program. For more information, see *Guide to the Commonwealth Caribbean and Mexican Seasonal Agricultural Worker Program (CCMSAWP) in Canada*.



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As a worker, you have the right to join with other workers to address shared problems and to improve your working conditions.



**Labour relations.**  
The relationships between unions, workers and employers are often referred to as labour or industrial relations.

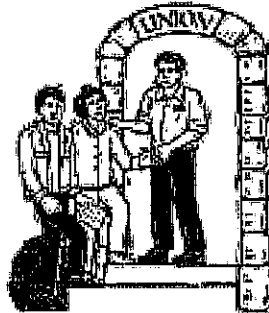
**Federal industries subject to the *Canada Labour Code* include:**

- industries that operate across provincial and national borders (bus operations, trucking, pipelines, ferries, shipping, etc.);
- air transport, aircraft and airports.
- telecommunications (radio and TV broadcasting, telephone and cable systems);
- banks;
- works declared by Parliament to be for the general advantage of Canada (e.g., grain elevators, uranium mining and processing);
- most federal Crown corporations.

Private companies in the Yukon, Northwest Territories and Nunavut are also subject to the *Canada Labour Code*.

**What is a union and what can it do for me?**

A union is a group of employees who work together to get better wages, hours and working conditions.



**Unions:**

- represent you to the employer;
- negotiate wages, hours and working conditions in "collective bargaining agreements";
- make sure that the collective bargaining agreement is put into effect.

**What are the advantages and disadvantages of joining a union?**

Joining a union can have many benefits, including better wages, benefits and working conditions.

Joining a union can also have costs, like union dues and striking when needed.

**Union certification**

A union must be certified before it can force an employer to negotiate a collective agreement covering the employees it represents.

- Over 50 percent of the workers in your workplace or in a unit within your workplace must choose to become members of a union before your union can become certified.
- Certification means that a union has been given official permission from a labour board to act on behalf of a group of workers called a bargaining unit.
- Workers and their unions are protected from employer interference when they are trying to become certified by a labour board.

**Is it legal for my employer to try to interfere with my right to join or not join a union?**

When you are covered by labour relations legislation, your employer cannot interfere with your right to join the trade union of your choice.

Employers and persons acting on behalf of employers CANNOT:

- threaten, penalize or intimidate you in any way because you belong to a union or are considering joining a union;
- participate in a union or contribute to a union;
- discriminate against any person because he or she is, was, or wants to be a member of a union. Such discrimination includes refusing to hire or firing a worker as well as any other situation where a worker is treated differently because of his or her association with a union;
- change employment conditions to prevent workers and potential workers from becoming union members.



**Contact your labour board to find out if you are protected by labour relations laws.**

- Domestic workers are included everywhere except in Alberta, New Brunswick and Ontario.
- Farm workers are included everywhere in Canada except in Alberta, Ontario, Quebec (when fewer than three such workers are ordinarily and continuously employed), and New Brunswick (when fewer than five employees are employed).
- Tree planters are included everywhere.
- Fishers are included everywhere (in Newfoundland and Labrador and New Brunswick, fishers are covered by a separate law).
- All Canadian labour relations laws exclude managers.

**Secondary picketing**

Secondary picketing is picketing activity that takes place outside workplaces or associations that do business or have a relationship with the worker's employer.

- Depending on the jurisdiction, secondary picketing is either prohibited or permitted under certain conditions.
- Secondary picketing does not include activities like issuing press releases, engaging in letter-writing campaigns and communicating information through paid advertising. These kinds of activities are protected by the *Charter of Rights and Freedoms*.



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Your employer could go to prison if he or she forces you to work in prostitution or violates your freedom by refusing to let you leave outside working hours.

If you wish to know more about workers' rights in the province where you live, call:

Alberta	1-800-232-7215
British Columbia	(604) 852-5486
Manitoba	1-800-821-4307
New Brunswick	1-800-452-2687
Newfoundland and Labrador	1-877-563-1063
Nova Scotia	1-888-315-0110
Ontario	1-800-531-5551
Prince Edward Island	1-800-333-4362
Quebec	1-800-265-1414
Saskatchewan	1-800-667-1783



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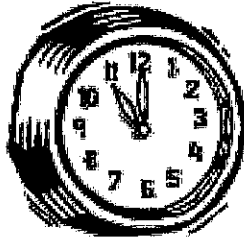
### Can I work wherever I want?

No. Most provinces prohibit minors from working on a variety of jobs that are dangerous, difficult or likely to have a bad effect on a child's moral development. For example, in New Brunswick, minors under the age of 14 may not work in garages, dancehalls or other places listed in the law. In Nova Scotia, minors under the age of 16 may not work in shooting galleries, pool rooms or other places listed in the law.

There is not room enough in this guide to list all the places where minors may or may not work.

### Can I work at night?

Not usually. In most provinces, workers under a certain age may not work after 10 or 11 p.m.



### How many hours a day can I work?

In most provinces, minors may not work more than two or three hours a day on a school day, or more than eight hours on a non-school day.

### Can I work on a farm in Canada?

Yes. Minors may work on farms in Canada.

### Do child labour laws apply to farm work in the same way as to other jobs?

In some provinces, child labour laws do not apply, or only partly apply, to farm work. What follows is a summary of the basic child labour laws for farm work in each Canadian province. Employers everywhere in the country have a duty of care and must ensure that the health and safety of young workers are protected.

## Province

## Restriction

### Alberta

Generally, restrictions on child employment do not apply to most farm and ranch employees.

Children under 16 must attend school during normal school hours, unless they have a special permit.

### British Columbia

Workers must be 15 years old or hold a permit from the Employment Standards Branch to work in any sector, including farm work.

### Manitoba

Most restrictions on child employment do not apply in the agricultural sector. However, children under 16 cannot work during school hours without a permit. Children under 15 may not get such a permit.

### New Brunswick

Youths under 18 may not work during school hours unless they have graduated from high school.

Youths under 16 cannot work on a farm or in other sectors:

- more than 6 hours/day;
- more than 3 hours/school day;
- on any school day when work and school add up to more than 8 hours;
- between 10 p.m. and 6 a.m.

Youths under 14 cannot be employed in the forestry industry, including tree-planting, brushing and spraying, without a permit from the Director of Employment Standards.

**Province      Restriction**

- When employing youth workers, employers must:
- identify potential dangers;
  - give proper instructions;
  - supervise the youth's work or ensure that a qualified adult supervises;
  - provide adequate training.

**Quebec**

Youths under 18 cannot be employed on a farm or in other sectors when:

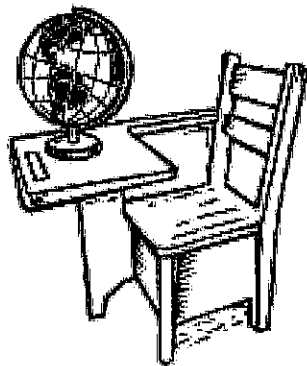
- the work is likely to be harmful to the youth's health, education or normal development;
- the work is disproportionate to the child or youth's abilities .

If a child or youth is subject to compulsory school attendance, he or she cannot be employed:

- during school hours or during hours that make attendance at school; difficult or impossible;
- between 11 p.m. and 6 a.m.

At the request of his or her parents, a student may be excused from attending school for up to six weeks during the school year to carry out urgent work.

Youths under 14 cannot be employed unless an employer receives written consent from the child's parent or tutor.



**Province      Restriction**

**Saskatchewan** Youth workers must be 16 years old to operate powered mobile equipment on a worksite or to work in areas where they may be exposed to dangerous chemicals or biological substances.

Youths under 16 cannot work during school hours without the permission of their school's principal.

**Harmful child labour is everybody's business**  
 Provincial officials who enforce labour, health and safety standards will accept good faith complaints about harmful child and youth labour from any person.

**Provincial contact information**

**Alberta**

For information about youth employment, to apply for a permit, or to make a complaint, contact the Human Resources and Employment Office nearest you, or dial: (780) 427-3731 in Edmonton or toll free (province-wide) 310-0000 (780) 427-3731.

If you believe that a child is working in dangerous conditions, or if you would like information about worker health and safety, contact Workplace Health and Safety:

- 1-866-415-8690 (province-wide toll free number).

**British Columbia**

For information about youth employment, to apply for a permit, or to make a complaint, contact the Employment Standards Branch nearest you, or dial:

- 1-800-663-3316 (province-wide toll free number).

For information about worker health and safety contact the Workers' Compensation Board of British Columbia:

- 1-888-621-SAFE (1-888-621-7233, province-wide toll free number).

# Guide to Minimum Employment Standards, Pay Deductions and Employment Insurance

in Canada

All Canadian provinces, territories and the federal government have minimum employment standards.

Minimum employment standards protect the rights of employees and ensure that they are being treated fairly and with respect.

Foreign workers, including workers without a valid work permit, are usually covered by employment standards laws in most provinces.

## What is the minimum hourly wage in Canada?

All provinces and territories in Canada have set an hourly minimum wage that must be paid by employers. Minimum wages vary by province. You should call your provincial employment or labour standards office to find out the minimum wage where you are working.

You cannot waive your right to a minimum hourly wage.

- In some cases, your boss may deduct the cost of room and board from your wages.
- Sometimes young or inexperienced workers may earn a lower minimum wage. For more information, contact the employment or labour standards office in the province where you are working.



## Is there a limit on the number of hours my employer can make me work each week?

The federal, provincial and territorial governments all have laws that limit the number of hours your employer can make you work per week at regular pay. Some laws also require employers to give minimum periods of rest to their employees and restrict the amount of overtime that an employee may be required to work.

**I am a farm worker. Do I have the same protections as other workers?**

The law is a bit different for farm workers in many Canadian provinces. Here is a list of important differences in each province.



**Alberta**

If you work on a farm or ranch and your employment is directly related to the production of eggs, milk, grain, fruit, vegetables, honey, livestock, game-production animals, poultry, bees or cultured fish, then you are excluded from most minimum employment standards in Alberta.

You are excluded from the following standards:

- Minimum wage
- Hours of work
- Overtime
- General holidays with pay
- Vacation
- Vacation pay
- Rest periods
- Restriction on employment of children

Call 1-800-232-7215 for more information.

**British Columbia**

If you are a farm worker in British Columbia, you are excluded from overtime provisions and general holidays with pay.

B.C. farm workers are entitled to the minimum wage. The province also sets out the piecework rates for farm workers who hand-harvest certain crops.

Contact the employment standards office at 1-800-663-3316 for minimum wage rates with respect to your task.

A farm labour contractor cannot charge you for his or her services.

If your farm labour contractor transports you to an area for work but does not supply you with work, he or she must pay you the minimum hourly wage for the longer of:

- 1) two hours; or
- 2) the time it took to go to and from the job site.

However, this doesn't apply if you cannot work because of bad weather or due to another cause outside the farm labour contractor's control.

Call 1-800-663-3316 for more information.

**Manitoba**

If you are employed as a farm worker you are excluded from the following minimum standards:

- Minimum wage
- Hours of work
- Overtime
- Paid general holidays
- Vacation
- Vacation allowance
- Rest periods
- Notice of termination
- Maternity leave and parental leave
- Restriction on the employment of children

Your employer must pay you on time for the work you do.

Your employer must pay men and women equally for the same work.

Call 1-800-821-4307 for more information.

**Prince Edward Island**

If you are a farm worker you are excluded from the following minimum employment standards (unless you are employed in a commercial operation):

- Minimum wage
- Hours of work
- Overtime
- General holidays with pay
- Vacation
- Vacation pay
- Rest periods
- Notice of termination

You must be paid on time for the work you perform. You are also entitled to maternity and parental leave, as well as protection from sexual harassment.

A commercial farm is a farm that purchases at least 50 percent of its product from other farms. You are covered by minimum standards if you work on a commercial farm.

Call 1-800-333-4362 for more information.

**Quebec**

If you are a farm worker in Quebec you are not entitled to the following labour standards:

- Hours of work
- Overtime

Employees principally involved in the hand-harvesting or processing of vegetables and fruit are not entitled to the minimum wage.

Call 1-800-265-1414 for more information.

**Saskatchewan**

If you are employed primarily in farming, ranching or market gardening, then you are not covered by the minimum labour standards law of Saskatchewan, except for provisions concerning the recovery of unpaid wages.

If you are employed in the operation of egg hatcheries, greenhouses or nurseries, bush clearing operations, or commercial hog farms then you are not considered to be employed in "farming, ranching or market gardening" and are covered by the *Saskatchewan Labour Standards Act*.

Call 1-800-667-1783 for more information.



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**Foreign workers are protected.**

Almost all employees in Canada are protected by human rights laws, even if they do not have a permit to work in Canada.

**Human rights law at a glance**

- Canadian human rights laws protect people and groups from discrimination based on factors that do not relate to personal merit or valid requirements of the job.
- Canadian human rights laws share many similarities and are based on the same core principles.
- These laws are usually referred to as human rights codes.
- Human rights commissions help to promote and protect equality between Canada's workers.

**You are protected from discrimination at every stage of your relationship with an employer.**

- **Before you are hired:** hiring practices are covered, including advertising, application forms, interviews, and employment agency referrals.
- **While you are working:** many working conditions are covered, including training, wages, benefits and benefit plans, discipline and suspension, dress codes, promotions, and seniority.
- **When your work ends:** dismissals and layoffs are also covered by human rights laws.

**What if a supervisor or a co-worker insults me or makes me uncomfortable because of my race or sex?**

Comments or actions that are abusive and unwelcome make a workplace unhealthy and may constitute workplace harassment.

You have the right to a work environment free of sexual and racial harassment. Your employer and your employer's managers must ensure that demeaning, offensive, or intimidating language or actions do not take place in the workplace.

**What if I have a disability or a special need? Am I protected by human rights laws?**

Your employer must try to accommodate your disability or special need, and cannot discriminate against you.

Employers cannot exclude workers from normal participation in the workplace when it is possible to make arrangements, such as changes to the workplace or working conditions, to include them.

When a worker's special needs are covered by human rights laws, an employer must modify working conditions to meet those special needs where it is possible to do so without serious hardship to the operation of the business.

This duty is called the duty of reasonable accommodation.

Here are some examples of reasonable accommodation:

- adding wheelchair access to an office;
- providing visual and hearing aids;
- modifying work activities during pregnancy or an illness;
- providing flexible work hours to allow for religious observance.



**For information or to make a complaint, contact your local human rights commission**

**Alberta:** Alberta Human Rights and Citizenship Commission

Edmonton phone: (780) 427-7661

Calgary phone: (403) 297-6571

Toll free: 310-0000 (in Alberta)

Internet: <http://www.albertahumanrights.ab.ca>

**British Columbia:** British Columbia Human Rights Tribunal

Vancouver: (604) 775-2000

Toll free: 1-888-440-8844

Internet: <http://www.bchrt.bc.ca>

**Manitoba:** Manitoba Human Rights Commission

Winnipeg phone: (204) 945-3007

Toll free: 1-888-884-8681

Brandon phone: (204) 726-6261

Toll free: 1-800-201-2551

The Pas phone: (204) 627-8270

Toll free: 1-800-676-7084

Internet: <http://www.gov.mb.ca/hrc/>

**New Brunswick:** New Brunswick Human Rights Commission

Phone: (506) 453-2301

Internet: <http://www.gov.nb.ca/hrc-cdp/>

**Newfoundland and Labrador:**

Newfoundland Human Rights Commission

Phone: (709) 729-2709

Toll free: 1-800-563-5808

Internet: <http://www.gov.nf.ca/hrc/>

**Nova Scotia:** Nova Scotia Human Rights Commission

Halifax phone: (902) 424-4111

Toll free: 1-877-269-7699

Internet: <http://www.gov.ns.ca/humanrights>

**Ontario:** Ontario Human Rights Commission

Toronto phone: (416) 326-9511

Toll free: 1-800-387-9080

Internet: <http://www.ohrc.on.ca>

**Prince Edward Island:** Prince Edward Island Human Rights Commission

Phone: (902) 368-4180

Toll free: 1-800-237-5031

Internet: <http://www.gov.pe.ca/humanrights>

**Quebec:** La Commission des droits de la personne et des droits de la jeunesse

Montréal phone: (514) 873-5146

Toll free: 1-800-361-6477

Québec phone: (418) 643-4826

Toll free: 1-800-463-5621

Internet: <http://www.cdpdj.qc.ca>

**Saskatchewan:** Saskatchewan Human Rights Commission

Regina phone: (306) 787-2530

Toll free: 1-800-667-8577

Saskatoon phone: (306) 933-5952

Toll free: 1-800-667-9249

Internet: <http://www.gov.sk.ca/shrc>

**Yukon:** Yukon Human Rights Commission

Phone: (867) 667-6226

Toll free: 1-800-661-0535

Internet: <http://www.yhrc.yk.ca>

**Federal Sector:** Canadian Human Rights Commission

Toll free: 1-888-214-1090

Internet: <http://www.chrc-ccdp.ca>



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For more information about how to file a complaint, see *Guide to Employment Discrimination Laws in Canada*.

### **What if I become sick and can no longer work during my pregnancy?**

- **First:** You can use up any sick leave time that your employer provides, which will normally allow you to receive 100 percent of your normal pay. In some jurisdictions, you are entitled to job protection for a certain period of time while you are on sick leave.
- **Second:** Your employer may provide insurance for workers with temporary disabilities (including pregnancy-related illnesses), which may pay a portion of your wages while you are too sick to work.
- HOWEVER, the law allows your employer to insist that you apply for your Employment Insurance benefits instead, if both benefits would be about the same amount.

### **What is Employment Insurance?**

In Canada, if you meet certain eligibility requirements, you can get Employment Insurance (EI) benefits if you:

- are pregnant;
- have recently given birth;
- are adopting a child; or
- are caring for your newborn baby.

Your partner may also be entitled to parental benefits.

- You can get maternity benefits while you are not working during pregnancy and/or right after a delivery and parental benefits while you are at home caring for your newborn or adopted child.
- In some cases, you may also be entitled to sickness benefits if you are too ill to work.

### **How do I qualify for EI maternity and parental benefits?**

You are entitled to Employment Insurance benefits if you meet these requirements.

- You must apply.
- You must have paid into the EI account (through premiums taken out of your pay).
- You must have done at least 600 hours of insured work within the last 52 weeks or since the start of your last claim (whichever is shorter), or roughly 12 hours a week for the past year.
- “Insured” work means any work for which EI premiums were deducted from your pay.

### **When can I receive EI maternity benefits?**

- You can start collecting maternity benefits up to eight weeks before you are scheduled to give birth.
- You can collect up to 15 weeks of maternity benefits.
- You and your partner can share up to 35 weeks of parental leave after the day your child is born or comes into your care for the first time. You can receive parental benefits only within the first year (52 weeks) after childbirth or adoption.
- You can collect up to 15 weeks of sickness benefits.
- You can combine maternity, parental and sickness benefits up to a maximum of 65 weeks.
- There is a two-week waiting period before benefits are paid (only one waiting period needs to be served for each birth or adoption). Some employers provide payments to their employees to cover this period.

### Health care for foreign temporary workers

To get health insurance under a provincial plan, you must be a resident of that province.

"Resident" usually means that:

- you are a Canadian citizen or a lawful permanent resident who makes his or her home in the province; and
- you are present in that province for at least some part of the year (usually six months or more).

Many foreign temporary workers, including farm workers, do not meet the residency requirements of most provinces, BUT...

- if you are a temporary worker in Manitoba, you may enroll in the health plan if you have an Employment Authorization that is valid for at least 12 months.

### CCMSAWP workers:

If you are a migrant farm worker in Canada under the Commonwealth Caribbean and Mexican Seasonal Agricultural Worker Program (CCMSAWP), you have the right to health insurance under the employment agreement that you signed when you began working.

Employers of other migrant and seasonal workers working under private labour contracts are not required to provide health insurance for their workers.

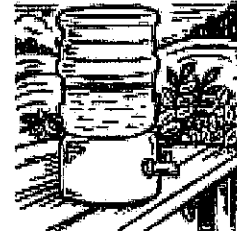
### Migrant farm workers: Tips for a safe and healthy pregnancy

#### Pesticides

- Being around pesticides while you are pregnant can be very dangerous to both you and your unborn baby. Make sure you read and follow all pesticide labels and warning signs.
- Wash your hands each time you use the bathroom and before eating to avoid getting germs or pesticides inside your mouth.
- For more information on how to protect yourself from pesticides, see *Guide to Pesticide Safety in Canada*.

#### Dehydration

- Dehydration can be dangerous to the health of your unborn child, especially if you work with pesticides.
- Dehydration is a loss of water and other important fluids in the body. Half of a woman's weight is made of water. The body needs to maintain a certain amount of water to work properly.
- Working outside in the sun for long periods of time without drinking water can easily cause dehydration.
- You must drink plenty of water throughout the day for a healthy pregnancy.



#### Diet

- Remember to eat a well-balanced diet, especially foods that have a lot of iron in them.
- Make sure you take the iron tablets that your doctor gives you. This will help you feel less tired.

#### Prenatal Care

- It is important to visit the doctor often during your pregnancy.



Commission for Labor Cooperation

You are entitled to a safe workplace even if you are a foreign worker and/or do not have a valid work permit.

**Federal industries subject to the *Canada Labour Code* include:**

- industries that cross provincial and national borders (bus operations, trucking, pipelines, ferries, shipping, etc.);
- air transport, aircraft and airports;
- telecommunications (radio and TV broadcasting, telephone and cable systems);
- banks;
- works declared by Parliament to be for the general advantage of Canada (e.g., grain elevators, uranium mining and processing);
- most federal Crown corporations.

**I am a farm worker. Is my work covered?**

- The farm industry is covered in every province except Ontario, Alberta and Prince Edward Island.
- In all other provinces and territories you are covered by occupational health and safety (OSH) regulations and have the same rights as a worker in any other industry.
- In Alberta contact OSH at 1-866-415-8690 for information on coverage and your rights. Ask for information about the Farm Safety Program.
- In Ontario contact OSH at 1-800-268-8013. Ask for information about the Farm Safety Program.

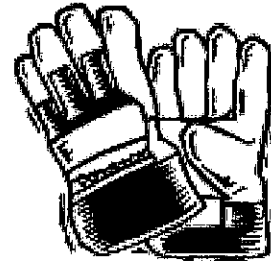
**Field sanitation standards for farm workers**

Unless you are in Ontario, Alberta, Manitoba or Prince Edward Island, you have the following rights.

- Your employer must provide you with clean drinking water while you are working.
- You are entitled to have easy access to toilets that are kept in good condition.
- You are entitled to have easy access to washing facilities that must be kept in good condition.
- In British Columbia, only some employers must ensure these rights. In B.C., call the local office of the Workers' Compensation Board to find out if your employer is covered.

**What are my employer's responsibilities?**

- Your employer must follow all workplace health and safety rules.
- Your employer must make sure that all equipment is kept in safe working order.
- Your employer must ensure that you have the skill and training needed to perform the task you have been assigned.
- Your employer must make sure that you are not harassed or retaliated against for reporting unsafe conditions.
- Your employer must make sure that you are aware of safety and health hazards before you take on any task or project.



**The right to refuse dangerous work**

- If you believe the work you are doing or have been assigned is dangerous, then you are entitled to refuse this work.
- You must be paid until the danger you speak of is removed, you are satisfied that the problem has been corrected or no longer exists, or an inspector tells you that it is safe to do the work.
- Your employer cannot retaliate against you when, acting in good faith, you refuse to work in a dangerous workplace or refuse to perform dangerous work.
- Each jurisdiction has its own investigation and appeal procedures. Contact your provincial or federal OSH office immediately for more information.

**What if I am hurt on the job?**

- If you suffer an injury on the job, you are entitled to workers' compensation benefits.
- Some provinces exclude farm workers and domestic workers from compulsory coverage, but your employer can easily choose to have coverage.
- For more information see *Guide to On-the-Job Injuries in Canada*.



Commission for Labor Cooperation

### **Who protects workers from pesticides?**

Provincial, territorial and federal workplace health and safety agencies help protect workers who work with or near pesticides. Health and safety laws and regulations establish additional safety rules for workplaces in which pesticides are found. For health and safety information, and to find out what laws apply in your workplace, contact your provincial or territorial agency (if you work in a federally regulated occupation, contact the regional office of Human Resources and Skills Development Canada).

### **Who enforces pesticide laws?**

Federal and provincial pesticide officials make sure the registration requirements under the PCP Act are followed. PMRA and other officials investigate the use, sale and import of pesticides.

Punishments for violating the PCP Act include fines of up to \$50,000 and even imprisonment. Employers are also responsible for violations committed by their employees.

### **Who should I call if I have questions about pesticides?**

The Pest Management Regulatory Agency provides workers, employers, and the general public with a wide range of pesticide information.

The PMRA can be contacted from anywhere in Canada toll free at:  
1-800-267-6315.



### **The importance of pesticide regulation**

#### **Safe pesticide use benefits everyone**

- Pesticide safety rules are good for workers' health and good for business.
- Safe pesticide use helps to protect workers, their families, and the public from harmful exposure to pesticides.
- Workers and employers must all make sure that pesticides are being used safely in the workplace.

#### **The dangers of unsafe pesticide use are real**

- Workers exposed to pesticides under unsafe conditions may suffer short-term and long-term health problems.
- Pesticide poisoning can cause serious illness and even death.
- Pesticides can destroy a worker's ability to have children.
- Workers exposed to unsafe levels of pesticides can endanger their families when they come home from work. Children are often at greater risk from pesticide exposure, and even low levels of pesticides can create serious health risks.
- Unsafe pesticide use damages our environment.

## How do I know if I have been harmed by pesticides?

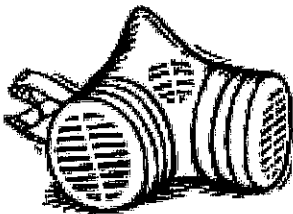
Pesticides can be very dangerous, and they can harm you in many ways.

Pesticides harm both men and women.

### Pesticides can:

- Hurt your nose
- Hurt your throat
- Hurt your eyes
- Cause rashes on your skin
- Cause your muscles to twitch
- Cause your urine to look smoky
- Cause your nose to run
- Cause your body to shake
- Cause your stomach to hurt
- Cause permanent brain damage
- Cause problems with seeing
- Cause problems with thinking
- Give you a headache
- Give you muscle pains
- Give you cramps
- Give you blisters
- Give you ulcers
- Give you a heart attack
- Make you feel sick
- Make you sweat a lot
- Make you feel dizzy
- Make you drool
- Make you have trouble breathing
- Make it hard for you to speak
- Make you confused

There is not enough room in this guide to list all the ways that pesticides can hurt you!



**Protect yourself  
at all times and  
follow all safety  
rules!**

## Pesticides can hurt you years later

Pesticides can hurt you months or years after they get on your skin or in your eyes, mouth or lungs.

### Pesticides can:

- Give you cancer
- Hurt your kidneys
- Hurt your liver
- Hurt your nervous system
- Cause birth defects in your children

## Contact your provincial and territorial pesticide and health and safety agencies

### Alberta

Pesticide Agency: Alberta Environment

- 1-800-222-6514 (toll free in Alberta)
- (780) 944-0313

Workplace Health and Safety: Human Resources and Employment, Workplace Health

- 1-866-415-8690 (toll free in Alberta)
- (780) 415-8690

### British Columbia

Pesticide Agency: Integrated Pest Management Program

- 1-800-663-7687 (toll free in BC; ask to be transferred to the Integrated Pest Management Program)
- (250) 387-4441

Workplace Health and Safety: Workers' Compensation Board of British Columbia

- 1-888-621-SAFE (toll free in BC)
- 1-888-621-7233
- (604) 276-3100

### Manitoba

Pesticide Agency: Manitoba Agriculture and Food, Soils and Crops Branch

- 1-800-282-8069 (toll free in Manitoba; ask to be transferred to 945-7067)
- (204) 945-7067 or 7706

Workplace Health and Safety

- 1-800-282-8069 (toll free in Manitoba)
- (204) 945-3446

**Saskatchewan**

Pesticide Agency; Saskatchewan Agriculture and Food, Inspection and Regulatory Management, Pesticide Unit

- (306) 787-2195

Workplace Health and Safety:

Saskatchewan Labour, Farm Safety Program

- 1-877-419-3510 (toll free in Saskatchewan)
- (306) 787-0920

Occupational Health and Safety Division:

- 1-800-567-7233 (toll free in Saskatchewan)
- 1-800-667-5023 (toll free in Saskatoon only)
- (306) 787-4496

**Yukon**

Pesticide Agency; Renewable Resources, Environmental Protection and Assessment

- (867) 667-5683

Workplace Health and Safety: Workers' Compensation, Health and Safety Board, Occupational Health and Safety Branch

- 1-800-661-0443 (toll free in Yukon)
- (867) 667-5450



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**I am a farm worker. Am I covered?**

- If you are a farm worker, Alberta, Manitoba, Nova Scotia, Prince Edward Island, and Saskatchewan do not require your employer to provide workers' compensation.
- You can still receive benefits if your employer chooses to include you. Ask your employer to find out whether he or she has workers' compensation coverage for you.

**I am a domestic worker. Am I covered?**

- You are a domestic worker if you work at your employer's residence (cleaning, cooking, gardening).
- Yukon and Saskatchewan do not require employers to have coverage. You should arrange for coverage by speaking with your employer.

**Does the payment of workers' compensation come out of my paycheque?**

No. Your employer must make the payments for your workers' compensation contributions. It is against the law for your employer to take contributions from your paycheque.

**Are all of my on-the-job injuries covered?**

- Yes. Injuries that occur in the course of employment are covered.
- An injury in the course of employment can be either a sudden event like a fall from a ladder, getting burnt, chemicals in eyes, etc. It can also be caused by performing a task over and over again for a long time, like typing too much or being exposed to materials like asbestos in the workplace over time.
- Both of these types of injuries are covered by workers' compensation.



**What medical expenses are covered?**

Coverage varies between provinces, but all provinces cover:

- hospital and/or physiotherapy costs;
- treatment by a doctor;
- repair of dentures, clothing or glasses and lost income from losing these things;
- artificial limbs, canes, hearing aids, and other needed aids that are prescribed by your doctor.

**Is workers' compensation like welfare?**

No. Workers' compensation is an insurance program. You have a right to workers' compensation.

You receive workers' compensation benefits for two primary reasons.

- 1) Your loss of earnings. Because of your injury you are no longer receiving your salary. Workers' compensation replaces part of your lost salary. You will be paid until you recover and once again receive a salary to support your family and yourself.
- 2) Loss of physical ability to work. If you lose some physical or mental ability because of your accident, all WCBs will compensate you for that loss.

You should contact your provincial worker adviser or office for help.

### **Prevent injury by working safely**

- Safety in the workplace is a shared responsibility between you and your employer.
- You must follow the safety instructions on all equipment and materials on site.
- Failure to do so may result in actions taken against you by your employer.
- Employers have to follow safety standards for their and your benefit.
- Failure to follow safety procedures could lead to an accident and increased WCB premiums for your employer. Employers are aware of this, and it is in their best interest to maintain a safe and healthy work environment by making sure employees follow the safety instructions.
- By not following safety procedures you will be putting yourself, your co-workers and your job in jeopardy.

For more information, see *Guide to On-the-Job Safety and Health in Canada*.

- 3) You must file a claim with the WCB. You have between six and 12 months to file this claim. Contact the WCB in the province where you work to find out what the time limits are.

### **What must my employer do after learning I was hurt on the job?**

- Your employer must notify the WCB of your injury or disease between three and five days after you give your notice of injury. If this deadline is not met then your employer will be fined by the WCB.
- Your employer must provide and pay for transportation to a place for you to recover.
- In all provinces your employer must have first-aid facilities on site.

### **Does it matter what health care provider (doctor) I choose?**

- Yes. In worker's compensation circles doctors and other professionals (like physical therapists) are called "health care providers."
- Selecting a health care provider is an important step toward your goal of being properly compensated and treated for your workplace injury. The health care provider is important not only for your recovery, but also in establishing your condition before and after your injury. Be honest and open with your health care provider in order to get a report that is a true statement of your medical condition.
- The provinces of Alberta, British Columbia, Manitoba, Quebec, and Ontario permit you to select a health care provider of your choice.
- In addition, the WCBs of Alberta, Nunavut, Nova Scotia, Quebec, Yukon, and Ontario may require you to undergo a medical investigation by a health care provider picked by the board.

### **Worker inquiry numbers**

#### **Alberta**

*General claims enquiries*

Tel: (780) 498-3800

Fax: (780) 427-5863 or toll free: 1-800-661-1993

*Injury Reporting*

Tel: (780) 498-3800

Fax: (780) 427-5863 or toll free: 1-800-661-1993

#### **British Columbia**

Tel: (250) 717-4301 or toll free: 1-888-922-6622

Fax: (250) 717-4334

Internet: <http://www.worksafebc.com/workers/workerscontact/default.asp>

#### **Manitoba**

Workers' Compensation Board of Manitoba  
Exchange connecting all departments

Tel: (204) 954-4321

Within Canada toll free: 1-800-362-3340

Within Canada toll free fax: 1-877-872-3804

# Guide to Social Security and Retirement

## in Canada

The Canadian government has a retirement income system that pays monthly benefits to:

- 1) retired workers;
  - 2) workers with a disability;
  - 3) survivors of deceased workers.
- Foreign workers with valid work permits and social insurance numbers may collect benefits if they otherwise qualify.
  - Workers without valid permits and valid social insurance numbers do not qualify for retirement benefits.
  - Retired workers can get benefits under the Old Age Security program (OAS) or the Canada Pension Plan (CPP) or both. Both programs are run by Social Development Canada (SD).
  - Quebec has its own, separate program for people who work in that province. It is called the Quebec Pension Plan (QPP), which is run by the Quebec Pension Board.

This guide will give you information about retirement and survivor benefits. For information about disability insurance and health care see *Guide to Disability and Health Care in Canada*.



### How can I qualify for Old Age Security benefits?

- The Old Age Security program provides retirement benefits only.
- You must be aged 65 or older and you must be a Canadian resident.
- Residency requirement:
  - 1) If you are now living within Canada, you must have been a legal resident of Canada for at least 10 years after age 18.
  - 2) If you are now living outside Canada, you must have been a legal resident of Canada for at least 20 years after age 18 before leaving the country.

- OAS benefits are based on residency in Canada, so even people who have never worked at all in Canada may be able to collect benefits.

### How do I qualify for the Canada Pension Plan?

In addition to OAS benefits, you may be able to get a second monthly retirement pension from the Canada Pension Plan.

- The children's benefit is a monthly payment to dependent children under age 18 or children who are between 18 and 25 and in school or university full-time in Canada.

### **Are there any other government programs that might help me?**

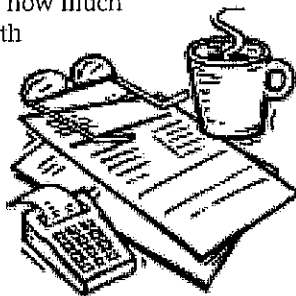
- If you receive an Old Age Security pension and have little or no other income or resources, you may be able to get an extra monthly "allowance" from the Guaranteed Income Supplement (GIS) program.
- Both married and single persons who receive OAS can apply. The amount of your benefits depends on your income and whether you are married.

### **How can I make sure that my employer is making contributions into the system?**

- You should receive a Statement of Contributions from the CPP every once in a while. But you can request up to one extra copy per year.
- The statement tells you the total amount of your contributions and your earnings by year. If you are age 30 or older, it will also show how much your monthly CPP benefits would be if you were eligible now.
- If you notice any mistakes on your statement, contact the CPP at your nearest Social Development Centre right away. A mistake can affect your future benefits under the CPP.

### **How much will my benefits be?**

- The amount will depend on how long you have worked and the amount you have paid into the system during your contributory period (age 18-70).
- Usually, workers who earn more get more.
- There are limits to how much you can get for both OAS and CPP.



### **What about my health care costs?**

For information on health care for retired and disabled workers in Canada, see *Guide to Disability and Health Care in Canada*.

### **How do I apply for retirement benefits?**

- If you reside in Canada you can apply for CPP or OAS benefits at your nearest Human Resources Centre or call 1-800-277-9914. If you reside in the United States, you can apply by calling the same number.
- If you reside outside Canada and the United States, you can do any of the following.
  1. Contact CPP or OAS directly by writing to the government regional office in the province where you last worked.
  2. Contact the Canadian Embassy in the country where you reside.

### **What happens if I apply for benefits and I am denied or do not understand the decision?**

You have the right to ask for an explanation or review of your case if your application is denied or if you have a concern about the amount of your pension.

You should be aware that each stage in the appeals process may take months to complete and that rules for the process are specific and complicated.

For the Canada Pension Plan, you can appeal in writing.

- 1) Request reconsideration from the Minister of Social Development within 90 days.
- 2) If you do not agree with the Minister's decision, appeal within 90 days to the Office of the Commissioner of Review Tribunals.
- 3) If you still do not agree with the decision, appeal within 90 days to the Pension Appeals Board. They can choose not to review your case. Their decision is final.

For Old Age Security, you can appeal in writing in the following manner.

- 1) Request a reconsideration or explanation from the Regional Director of Income Security Programs within 90 days.

# Guide to Disability and Health Care

in Canada

If you become sick or injured and cannot work, you may be able to get temporary disability benefits from the government while you are not working.

In Canada, there are federal and provincial programs that provide income support to disabled workers until they are well enough to go back to work.

This guide will help you understand the two main programs for workers with disabilities in Canada:

- Canada Pension Plan (CPP)
- Employment Insurance (EI)

Foreign workers with valid work permits may collect benefits if they otherwise qualify.

Workers without valid permits do not qualify for CPP or EI benefits.

## What is the Canada Pension Plan (CPP)?

The CPP is a federal government program that pays monthly benefits to retired workers and to workers who cannot work because of a disability.

## How do I qualify for the CPP?

- As you work and earn money on your job, you and your employer pay special premiums that go into the CPP system.
- To qualify for disability benefits, you must:
  - have worked at least four of the last six years;
  - be considered “disabled” by the CPP;
  - have earned at least the minimum salary allowed per year and paid enough into the CPP system. (In 2001, the minimum salary was \$3,740.)
- Quebec has its own similar plan called the Quebec Pension Plan (QPP) for workers in Quebec.



For more information on the CPP (and the QPP) and how to qualify for benefits, see *Guide to Social Security and Retirement in Canada*.

## What does “disabled” mean?

- You can get CPP disability benefits only if you have a disability that is severe and prolonged.
- “Severe” means that you are unable to work at any job – not just your regular job.
- “Prolonged” means that your condition is expected to last a long time or to cause death.

### How do I qualify for EI sickness benefits?

You may apply for and receive EI benefits, if:

- you stop working due to sickness, injury or quarantine;
- you have a valid work visa and are willing to work but cannot because of your disability;
- you worked at least 600 hours during the past 52 weeks and had EI premiums deducted from your pay during this period.

### How long can I get EI sickness benefits?

You may qualify to receive EI sickness benefits for up to 15 weeks.

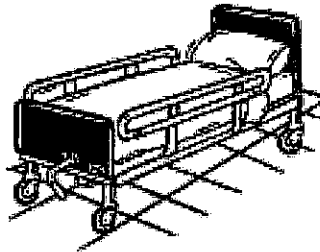
### Will I be able to collect benefits if I get hurt or sick on the job?

If your job caused your temporary disability, you may be able to get help under workers' compensation insurance.

For more information, see the *Guide to On-the-Job Injuries in Canada*.

### What about medical costs from my disability?

Each province provides free or low-cost health insurance for its residents. If you are covered under a provincial health plan already, then normally any medical care for your disability should be covered as well.



### Health care for foreign temporary workers

To get health insurance under a provincial plan, you must be a resident of that province.

"Resident" usually means that:

- you are a Canadian citizen OR a lawful permanent resident who makes his or her home in the province; AND
- you are present in that province for at least some part of the year (usually 6 months or more);
- many foreign temporary workers, including farm workers, do not meet the residency requirements of most provinces, BUT... if you are a temporary worker in Manitoba, you may enroll in the health plan if you have an Employment Authorization that is valid for at least 12 months.

### CCMSAWP workers:

If you are a migrant farm worker in Canada under the CCMSAWP program, you have the right to health insurance under the Employment Agreement that you signed when you began working.

Employers of other migrant and seasonal workers working under private labour contracts are not required to provide health insurance to their workers.

# Guide to the Commonwealth Caribbean and Mexican Seasonal Agricultural Worker Program (CCMSAWP)

in Canada

The CCMSAWP is a temporary work visa program for farm jobs in Canada.

The program matches farm workers from Mexico and the Commonwealth Caribbean with Canadian farmers during particular planting and harvesting seasons.

## Who can work in Canada under the program?

The government of the supply country recruits and selects the workers. Workers must have experience in farming. Also, a person may qualify to work only if she or he:

- is at least 18 years of age;
- is a national of one of the participating supply countries;
- satisfies the immigration laws of both Canada and the worker's home country;
- accepts and signs an employment agreement.

Both men and women can work in the program.

## How much will I be paid as a CCMSAWP worker?

Your employer must pay you the greatest of:

- the provincial minimum wage; OR
- the prevailing wage identified by Human Resources and Skills Development Canada (HRSD); OR
- the same rate that the employer pays to Canadians for the same type of work.

Contact HRSD or the Government Agent to find out the minimum wage for CCMSAWP workers in the province where you are working.



## What is the employment agreement?

- The employment agreements were created by the governments of Canada and the supply countries.
- The employment agreement is a contract between the employer and the worker.
- There are separate agreements for the Mexican program and the Caribbean program.
- The agreements establish the rights and duties of both parties.

### **What happens if I get injured on the job?**

- You must report your injury to your employer immediately and apply for workers' compensation.
- All CCMSAWP workers are covered for work-related accidents, either through provincial workers' compensation programs or through their employer's work injury insurance.
- Employers can not deduct money from your paycheque to recover the cost of purchasing workers' compensation insurance.

### **What is workers' compensation?**

- If you are hurt on the job or become seriously ill because of your job, you are entitled to receive medical and wage benefits.
- You must report your injury to your employer immediately.
- Your employer must then report your injury to the Government Agent and the provincial workers' compensation board within 48 hours of the injury.
- If you need medical help, the employer must immediately arrange for you to see a doctor.

For more information on workers' compensation, see *Guide to On-the-Job Injuries in Canada*.

### **May I bring my family with me to work in Canada?**

No. Only the worker receives a work visa to enter Canada.

### **Will my employer pay for my travel costs?**

Yes. The employer must pay for travel between the airport (or other point of arrival) in Canada and the place of employment.

Employers must pay the round-trip airfare between your home country and Canada. The employer may recover part of the cost from your pay.

### **I have worked under the program before. Will I work for the same employer again?**

"Named" workers are those workers that a farmer requests by name and who have worked for that farmer before. Most workers in the program are named workers.

The "unnamed" workers are workers selected and recruited by the supply country's ministry of labour.

### **What can I do if my employer does not follow the employment agreement?**

There is a Government Agent from your home country. The Government Agent is stationed in Canada, usually in your country's consulate.

- The Government Agent represents all of the workers from that particular country.
- If your employer does not follow the employment agreement, you have the right to make a complaint to your Government Agent.

Workers can reach their Government Agents at the following numbers:

- Workers from Mexico: 1-888-351-2690.
- Workers from Jamaica: 1-888-898-3951.
- Workers from Eastern Caribbean countries: 1-888-518-3257.
- Workers from Barbados: (905) 851-3083
- Workers from Trinidad and Tobago: (905) 987-3001

### **What happens if I decide to leave the job?**

- If you decide to leave the job, or if your employer decides to let you go after the trial period, you will have to pay for some or all of your travel costs, depending on a number of factors, such as how long you have worked for the employer.
- You should call your Government Agent immediately to be informed about who will pay your ticket home.



**Mexico**

- Each court is called a Conciliation and Arbitration Board (Junta de Conciliación y Arbitraje, JCA).
- There are also labor inspectors in Mexico who inspect workplaces to ensure that employers follow occupational safety and health, minimum standards and other laws.

For more information about what Conciliation and Arbitration Boards do and how they solve employment problems, see *Guide to Resolving Labor Disputes in Mexico*.

**Remember: the law is federal, but it is enforced in some cases by state officials.**

- In Mexico, there is a single Federal Labor Law that governs employer-employee relations. This law governs collective labor relations, right to a safe work environment, freedom from discrimination, whether an intermediary or contractor is an employer, and other subjects.
- The Mexican states enforce the Federal Labor Law in some cases.
- Some states have work-related laws with possible criminal penalties for cases involving, for example, sexual harassment and forced labor; in all others, federal laws apply.

**Where do I go if I believe my employer has treated me unfairly because of my sex or race or other qualities I have that make me different?**

You can go to the Public Labor Defender (Procuraduría de la Defensa del Trabajo), the labor rights prosecutor in charge of providing consultation regarding the application of labor laws and representation before any government official to workers, their beneficiaries and their unions upon request.

You can file a claim with the Conciliation and Arbitration Board. You can also call the Federal Labor Inspector and ask that your employer be investigated for discrimination.

- In Mexico, human rights commissions deal with a variety of human rights issues, but they do not handle employment discrimination complaints.

For more information, see *Guide to Employment Discrimination Laws in Mexico* and *Women's Guide to Work and Pregnancy in Mexico*.

In Mexico, it is illegal to discriminate against workers because of their social status or political opinion, or because of sex, ethnic or national origin, age, or disability, as well as other grounds.

**What can I do if my employer does not pay me the minimum wage or overtime?**

You can go to the Public Labor Defender's Office, which will provide free advice, or you can file a claim with the federal or local Conciliation and Arbitration Board in the state where you are working.



You can also file a complaint with the Federal Labor Inspector or with a local inspector, depending on which jurisdiction your workplace falls under.

For more information about minimum standards laws in Mexico, see *Guide to Minimum Employment Standards, Pay Deductions and Severance Pay for Unjustified Firing in Mexico*.

**Health insurance in Mexico**

In Mexico, the Social Security Institute provides medical insurance for non-work related injuries and illnesses. It also provides for some wage benefits when you are pregnant or temporarily disabled.

For more information, see *Social Security and Retirement in Mexico* and *Women's Guide to Work and Pregnancy in Mexico*.

**What can I do if my workplace is unsafe and I want to report it to someone?**

You can report an unsafe workplace to the Federal Labor Inspector.

For more information and a number to call, see *Guide to On-the-Job Safety and Health in Mexico*.

**What can I do if my employer fires me?**

In Mexico, workers can be legally fired only for certain reasons. If you are fired illegally, you may be able to get three months severance pay in addition to 12 days' salary for each year you worked for your employer.

If you believe you have been fired unjustly, you can go to the Public Labor Defender (Procuraduría de la Defensa del Trabajo) to receive advice, reconcile with your employer, or request orientation and representation in filing a claim with the Conciliation and Arbitration Board in the state where you are working.

There is no unemployment compensation insurance in Mexico.

For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Severance Pay for Unjustified Firing in Mexico*.

**Where do I go if I want someone to explain the law to me and help me with my case?**

Mexico has a labor rights prosecutor called a Public Labor Defender who can represent you in labor and employment claims.

The Public Labor Defender's Office provides free legal services to workers who have disputes with their employers.

For more information about the Procuraduría de la Defensa del Trabajo, read *Guide to Resolving Labor Disputes in Mexico*.

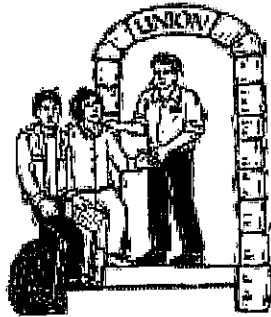


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### What are the advantages of joining a union?

Joining a union can have many benefits, including better wages, benefits, and working conditions.

Joining a union also has costs, like paying union dues and striking when needed.



No worker is required by law to join or not to join a union.

### What is a collective contract?

A collective labor contract is a pact or agreement reached between unions and employers in order to establish working conditions such as wages and hours.

Only unions can negotiate collective contracts with employers.

Collective contracts cover all workers in the company, including managers and employees without contracts, unless the collective contract itself states the contrary.

If the employer refuses to sign a collective contract, workers can go on strike to gain leverage.

Also, the union and employer can put an "exclusion clause" in the collective contract.

If the collective contract has an "exclusion clause," any worker who quits or is expelled from the union can be fired.

### How to register a union

Unions must register with the Secretariat of Labor and Social Services (Secretaría del Trabajo y Previsión Social, STPS) in federal jurisdictions, and with Conciliation and Arbitration Boards (Juntas de Conciliación y Arbitraje, JCA) in those states with local jurisdiction, in order to receive recognition and negotiate with employers.

To register, a union must have at least 20 members.

Workers must give the JCA or the STPS:

- 1) two authorized copies of the minutes of a members' meeting;
- 2) two lists of the names, addresses, and employers of all members;
- 3) two copies of the union bylaws;
- 4) two authorized copies of the minutes of the meeting where the board of directors was elected.

In municipalities where the number of workers in a given profession is fewer than 20, a combined trade union can be formed by workers of different professions.

Unions can be dissolved if two-thirds of the members vote in favor, or when the term stipulated in the bylaws has passed.

### What rights do I have as a union member?

You have a right to learn about union financial information at a general meeting once every six months.

### Can I be expelled by the union?

Your union can expel you only at a meeting with all members present during which you have the opportunity to defend yourself.

# Guide to Laws Prohibiting Forced Labor

## in Mexico

### What is forced labor?

- Forced labor is work performed against the will of the person doing it.
- Forced labor is also work done or personal services provided without proper payment.
- The Mexican Constitution prohibits forced labor.
- The Mexican Constitution protects you from forced labor even if you are a foreign worker or a worker without a valid work permit.
- The Federal Penal Code punishes anyone who forces another person to perform work without consent or without proper payment.

If your employer threatens or intimidates you to make you work, or if you are not paid for your services, you are a victim of forced labor.

If you think you are a victim of forced labor, contact the local Public Labor Defender's office.



### As a worker, you have these rights:

- You can work wherever and whenever you wish, providing your work is not illegal.
- You must receive at least the minimum wage as payment.
- No one can force you to provide your services to an employer if you are not paid and do not agree.
- In Mexico, labor contracts can be valid for a set period, for an indefinite period, or for a specific task.
- If you quit before your contract ends, no one can force you to return to work.
- If you have incurred a debt with your employer because he or she gave you a loan, only 30 percent of the balance can be deducted from your minimum wage.

If you are a member of an indigenous community, no one can force you to work, even when it is your people's custom. If you do not wish to work, no one can make you do so.

You must inform the nearest local Public Labor Defender's Office if:

- a "coyote" makes you work for free under the pretext of charging you for the "trip;"
- you are forced to work in prostitution;
- your working papers are taken or you are not allowed to leave the workplace outside working hours.

# Guide to Child Labor Laws

## in Mexico

**T**he Federal Labor Law sets special standards for children who work in Mexico. The purpose of these standards is to ensure children's safety, welfare and access to education.

Child labor laws protect both Mexican and foreign children working in Mexico, including foreign child workers without a valid permit.

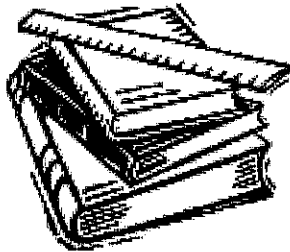
### At what age can I start work in Mexico?

The Mexican Constitution allows boys and girls aged 14 to work.

### What do I need to be able to work?

If you are over 14 but under 16, you must:

- have finished secondary school. If you have not finished, you need permission from the labor inspector;
- obtain a medical certificate stating that you can work. Without a medical certificate, no employer can hire you.



You need permission from your parents or guardians, or if you do not have any from:

- your trade union, or
- the Conciliation and Arbitration Board (Junta de Conciliación y Arbitraje, JCA), or
- the labor inspector, or
- political officials.

If you are over 16 but under 18, you must have finished secondary school and obtained a medical certificate.



### Where do I get the permit authorizing me to work?

The offices you must go to vary from one city to the next. You should call the public information phone number in your city or any of the numbers shown below.

### What papers do I need to be able to work?

You need to present the following papers in order to work:

- Birth certificate
- School certificate
- Medical certificate

If you are over 14 but under 16 years old, you must also have written permission from your parents or guardian.

**General Federal Labor Inspection Department**  
(Dirección General de Inspección Federal del Trabajo): Carretera Picacho-Ajusco Km. 1.5  
No. 714, Col Torres de Padierna, C.P. 14260  
Tel: (55) 5645-5999, 5645-5850,  
5645-3995, ext. 2266  
Fax: (55) 5645-6216

**Federal Public Labor Defender's Office**  
(Procuraduría Federal de la Defensa del Trabajo):  
Tel: (55) 5134-9800  
Toll free: 01-800-717-2942

**Information on State Public Labor Defender's Offices**  
(Procuradurías Foráneas):  
Tel: (55) 5588-0268

**Federal Conciliation and Arbitration Board**  
(*Junta Federal de Conciliación y Arbitraje*):  
Dr. Andrade No. 45 Col. Doctores, Deleg.  
Cuauhtémoc Mexico, D.F., C.P. 06720  
Tel: (55) 5722-8700

**National Minimum Wage Commission** (Comisión  
Nacional de Salarios Mínimos, Conasami):  
Av. Cuauhtémoc 14, Doctores  
Cuauhtémoc 06720  
Tel: (55) 5588-9844

**Child Protection Division, Office to Aid Minors and  
Adolescents at Risk, DIF** (Dirección de Protección  
a la Infancia, Subdirección de Atención a  
Menores y Adolescentes en Riesgo del DIF):  
Calle Morelos No. 70, Col. Tlalpan, Deleg.  
Tlalpan, 14000 México, D.F.  
Tel: (55) 5573-1540 or 5573-1355,  
ext. 313 or 338  
Fax: (55) 5655-5003

**General Division of Crime Prevention and Community  
Services of the General Attorney's Office of the  
Republic**

(Dirección General de Prevención del Delito y  
Servicios a la Comunidad de la Procuraduría  
General de la República)  
Tel: (55) 5346-2400 in Mexico City, and toll free  
01-800-002-5200 outside the capital

**State General Attorney's Offices**

(Procuraduría General de Justicia de los Estados)  
Look up the number in the telephone directory  
for the local district where you are located.

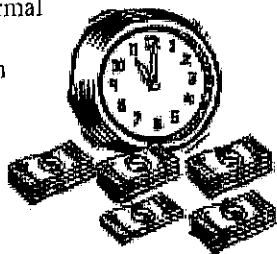


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### What happens if I work longer hours than normal?

If your employer makes you work longer than the workday, you are entitled to overtime pay.

- You are entitled to be paid extra for any overtime you work.
- Any overtime you work must be paid at double the normal rate.
- If you work more than nine hours overtime a week, your employer must pay you triple for each extra hour as of the tenth.



Farm workers have the same rights as all other workers. In addition, they enjoy special rights under Federal Labor Law.

#### Get your working conditions in writing.

Under no circumstances can working conditions be inferior to those established by law. It is important to obtain these conditions in writing. When working conditions are written, they are called a contract, which must include:

- name, nationality, age, gender, marital status, address (yours and your employer's);
- whether you will be hired for a particular task, for a given period or indefinitely;
- the type of work you will do;
- the place or places where you will work;
- working hours (never more than eight hours a day);
- the amount and how you will be paid (never less than the minimum wage);
- the day and place where you will be paid;
- rest days;
- vacations;
- whether you will be trained or instructed within the terms of the plans and programs established or to be established by the company.

#### Can my employer take money out of my pay?

Your employer can take money out of your pay only for certain reasons. When your employer takes money out of your pay, the money taken out is called a deduction.

If you earn the minimum wage, deductions may be made only if:

- you are ordered to pay alimony by a judge;
- you have to make payments on an INFONAVIT loan. INFONAVIT is a workers' housing financing agency;
- you pay rent – no more than 10 percent of your wages;
- you have to make FONACOT payments. FONACOT is a workers' financing agency for purchasing goods and services.

If you earn the minimum wage, your employer must pay all your Mexican Institute of Social Security (Instituto Mexicano de Seguro Social, IMSS) contributions.

If you earn more than the minimum wage, all of the above apply, as well as:

- payment of any debts you have with your employer if you received an advance on your wages. The amount you owe must not be more than one month's wages;
- payment of savings fund contributions;
- payment of trade union dues;
- payment of Social Security contributions;
- taxes.

#### What do Social Security contributions pay for?

Social Security contributions to the Mexican Social Security Institute (IMSS) pay for benefits like disability insurance, health care and retirement. For more information about Social Security benefits you are paying for, see *Guide to Social Security and Retirement in Mexico* and *Guide to Disability and Health Care in Mexico*. Working parents receive additional maternity and child-care benefits. For more information, see *Women's Guide to Work and Pregnancy in Mexico*.

#### Do I have a right to a bonus every year?

Yes. Workers in Mexico have a right to a year-end bonus called *aguinaldo*. Your year-end bonus is money you receive in December.

Your employer must give you at least:

- 15 days' wages if you have worked a full year; or
- the proportional amount if you have worked less than a year.



- You need training, especially if you are going to work with pesticides or other dangerous chemicals.

For more information on pesticide training, see the *Guide to Pesticide Safety in Mexico*.

### **Is it legal for my employer to treat me badly?**

No. You deserve proper treatment at work. Neither your employer nor his or her family should harass you or make you feel bad.

For more information, see the *Women's Guide to Work and Pregnancy in Mexico* and *Guide to Employment Discrimination Laws in Mexico*.

### **Do I have to pay for my own work tools?**

No. When your tools are no longer useful, your employer must replace or repair them free of charge.

### **If I live far away from the workplace, do I have to pay for my transportation?**

No. If the place where you work is 100 kilometers (60 miles) or more from the place where you live, your employer must pay for your transportation to work in the event you have been hired to provide services someplace other than your place of residence, with the intention that you transfer there permanently.

The same applies when, for any reason, your contract ends and you have to return home.

### **What other benefits must my employer provide?**

Your employer must register you with the Mexican Social Security Institute (IMSS), so that you can receive the benefits it offers. These include:

- needed medical attention, medicines and hospitalization for you, your husband or wife, children and parents;

- medical attention and medicines, free of charge, if you have an accident at work;
- child-care centers for your children.

If an on-the-job injury prevents you from working, you will receive your full wages until you recover.

For more information about insurance for on-the-job injury, see *Guide to On-the-Job Injuries in Mexico*.

### **Does the law protect me if my employer fires me from my job?**

Yes. Your employer can fire you only for certain reasons.

If your employer fires you unjustifiably, you are entitled, if you wish, to be reinstated in your former position or to be compensated with three months' salary, including the corresponding premium for seniority. Your employer can refuse to reinstate you if you worked for less than a year, if you are in direct and permanent contact with your employer, if you have no contract, if you are a domestic employee or if you worked freelance. In such cases your employer must provide you with the following compensation.

- Three months' wages and all back pay. You may be entitled to more, depending on how long you worked for your employer.
- If your contract is for a predetermined period and you worked for less than a year, compensation is equal to half the time worked.
- If your contract is for a predetermined period and you worked more than a year, your compensation is equal to six months' wages for the first year and 20 days' wages for each additional year.
- If your job was for an unlimited time, your compensation is 20 days' wages for each year worked.



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You can also file a claim with the Conciliation and Arbitration Board (Junta de Conciliación y Arbitraje, JCA) in the state where you are working.

For more information on Conciliation and Arbitration Boards and how they solve labor disputes, see *Guide to Resolving Labor Disputes in Mexico*.

You can also file a complaint with the labor inspection agency in your jurisdiction, who can inspect your workplace for violations of Mexican labor and employment laws.

You also can go to the National Council for the Prevention of Discrimination (Consejo Nacional para Prevenir la Discriminación) and file a complaint against discriminatory practices in the workplace.

**I am a foreign worker. Is it legal for my employer to discriminate against me?**

Foreign workers are protected by most Mexican labor laws.

However, employers must give preference to hiring Mexican workers before giving a job to foreigners, in compliance with the 10 percent rule.

- The 10 percent rule. At least 90 percent of the workers in a Mexican company must be Mexican.

**Where do I go if I want someone to explain the law to me and help me with my case?**

Mexico has an agency in charge of advising workers about their labor rights, called the Public Labor Defender's Office, where you can obtain advice and free representation in your labor disputes. In Mexico City, call (55) 5134-9800 and 01-800-717-2942 (toll free).

In the event you are discriminated against, you can also go to the National Council for the Prevention of Discrimination (Consejo Nacional para Prevenir la Discriminación), which will provide free consultation regarding the rights

you are entitled to and the means to obtain them. Also, the Council will train you on how to defend your rights before the corresponding officials. In Mexico City, call (55) 5203-4602.

**I am indigenous and want someone who can speak my language to help me with a dispute I am having with my employer. Is there someone who can help me?**

The National Commission for the Development of Indigenous Peoples (Comisión Nacional para el Desarrollo de los Pueblos Indígenas, CNDPI) provides free legal services to indigenous people in Mexico, including for civil and labor dispute-related cases. CNDPI's legal services program can also help you with criminal matters. CNDPI has translators who speak indigenous languages and can help you with court proceedings.

For more information, call CNDPI's legal services program Legal Services for the Indigenous Population (Atención Legal a la Población Indígena) at (55) 5595-5698 ext. 2305 or 2306 in Mexico City, or contact the nearest CNDPI office in your state.

**I am a handicapped person. How can I join the workforce and find the right job for me?**

The federal government has created the Program of Labor Integration for Handicapped Persons (Programa de Integración Laboral para Personas con Discapacidad). This program seeks to provide equal opportunity to people with different capacities through consultation, information, and job orientation. Through this program you can receive information on job training and instruction, and familiarize yourself with job opportunities at companies.

For more information, contact the Federal Labor Delegation (Delegación Federal del Trabajo) of the Secretariat of Labor and Social Services (Secretaría del Trabajo y Previsión Social) in your state, or the Office of Representation for the Promotion and Social Integration of Handicapped Persons (Oficina de Representación para la Promoción e Integración Social para Personas con Discapacidad), at (55) 5563-0500 ext. 3151 in Mexico City.



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Likewise, if you have been the victim of discrimination at work because you are a woman, or because you are pregnant, or because of your marital status you can go to the National Council on the Prevention of Discrimination (Consejo Nacional para Prevenir la Discriminación, CNPD). There you will be provided with free legal advice regarding your rights and orientation on how to defend those rights. Call (55) 5203-4602.

### **Do I have special rights as a working mother?**

Yes. Working mothers in Mexico have many rights under the Federal Labor Law. Working mothers and all working parents with the right to Social Security can participate in maternity and child care benefits provided by the Mexican Social Security Institute (Instituto Mexicano del Seguro Social, IMSS).

Your employer cannot fire you because you are pregnant. If this happens, you should go to Profedet or the CNPD. For more information about employment discrimination see the *Guide to Employment Discrimination Laws in Mexico*.

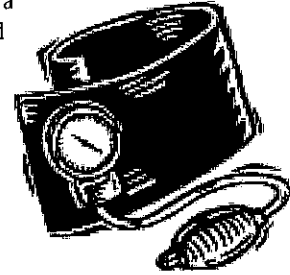
The Federal Labor Law guarantees the following rights to working mothers:

- You do not have to work in dangerous places, or those that can make you ill. One example is work with pesticides.

### **Prevent injuries by being safe on the job!**

On-the-job safety is important for all workers, not just working mothers. For more information, see *Guide to On-the-Job Safety and Health in Mexico*. Pesticides, like many chemicals you may work with on the job, can be very dangerous to all workers, including working mothers. For more information, see *Guide to Pesticide Safety in Mexico*.

- You have the right to rest for six weeks before your baby is born and six weeks afterwards, while receiving your full wages.
- You have the right to two daily half-hour rest periods to feed your baby.
- You have the right to a doctor, medicines and care at a hospital or clinic when your baby is born.
  - You can take your child to an IMSS child care center once he or she is 43 days old and until age four.



For more information, see *Guide to Social Security and Retirement in Mexico*.

### **How long may I work during my pregnancy?**

- You have the right to keep working during your pregnancy as long as you are able to perform your job safely.
- Your employer may not fire you, force you to take a lower paying job, or force you to take leave simply because you are pregnant.
- Your employer must provide you with safe, less strenuous work if it is necessary to protect your health and that of your unborn baby.

### **What if I need to take time off from work during my pregnancy?**

During your pregnancy, you can take a day off if and when it are justified by a written medical note from IMSS. This is to ensure you do not lose a day of wages.

### **What if I need to take a leave of absence during my pregnancy?**

Under Federal Labor Law, you have the right to 12 weeks of maternity leave.

### Know your rights!

Your employer can fire you only for certain reasons. This is one of the minimum rights you have as a worker. For more information about your basic rights on the job, see *Guide to Minimum Employment Standards, Pay Deductions and Severance Pay in Mexico*.

Sexual harassment is considered a crime under the Federal Penal Code. In addition, the criminal codes of the following states consider sexual harassment to be a crime:

1. Aguascalientes
2. Baja California
3. Chihuahua
4. Distrito Federal
5. Guerrero
6. Hidalgo
7. Mexico State
8. Morelos
9. Nuevo León
10. Oaxaca
11. Guerrero
12. Sinaloa
13. Veracruz
14. Yucatán
15. Zacatecas

If you work in any of these states and are subjected to sexual harassment, you can report the problem to the nearest Attorney General's Office (Ministerio Público).

### Farm workers: Tips for a safe and healthy pregnancy

#### Pesticides

- Being around pesticides while you are pregnant can be very dangerous to both you and your unborn baby. Make sure you read and follow all pesticide labels and warning signs.
- Wash your hands each time you use the bathroom and before eating to avoid getting germs or pesticides inside your mouth.
- For more information on how to protect yourself from pesticides, see *Guide to Pesticide Safety in Mexico*.

#### Dehydration

- Dehydration can be dangerous to the health of your unborn child, especially if you work with pesticides
- Dehydration is a loss of water and other important fluids in the body. Half of a woman's weight is made up of water. The body needs to maintain a certain amount of water to work properly.
- Working outside in the sun for long periods without drinking water can easily cause dehydration.
- You must drink plenty of water throughout the day for a healthy pregnancy.



#### Diet

- Remember to eat a well-balanced diet, especially foods that have a lot of iron in them.
- Make sure you take the iron tablets that your doctor gives you. This will help you feel less tired.

#### Prenatal care

- It is important to visit the doctor often during your pregnancy.



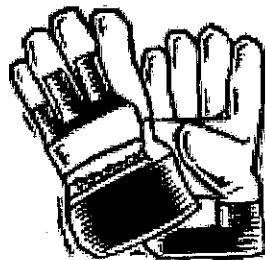
Commission for Labor Cooperation

#### **I am a farm worker. What do I need to know?**

- If you become ill, you and your family must be provided with medical assistance or be taken to a place that can provide you with medical assistance.
- If there is a tropical or local disease in the region where you are employed and that prevents you from working, you must be paid at least 75 percent of your wages for at least 90 days.
- Pesticides and other chemicals are extremely dangerous. For more information, see *Guide to Pesticide Safety in Mexico*.

#### **Workplace Health and Safety Committee**

- Mexican law requires every workplace to have a health and safety committee.
- These committees allow your voice to be heard.
- Employee representatives must form part of these committees.
- Your committee assists in carrying out on-site inspections.
- Your committee investigates the causes of on-the-job accidents.
- Your committee makes proposals to help prevent workplace accidents and injuries.



#### **Where do I report an unsafe workplace?**

You can report an unsafe workplace to the General Office of Workplace Health and Safety (Dirección General de Seguridad y Salud en el Trabajo). To find out where you need to go, call or write:

Dirección General de Seguridad y Salud en el Trabajo  
Valencia 36, Col. Insurgentes Mixcoac,  
Del. Benito Juárez, C.P. 03920, México, D.F.  
Tel: (55) 5563-0500

#### **What are my employer's responsibilities?**

- Your employer must always provide you with the necessary training so you can carry out your tasks safely.
- Your employer must post all federal safety rules and regulations for the workplace in a visible location.
- Your employer must make sure that you are aware of safety and health hazards before you take on any task or project.

#### **What if my employer tells me to do work which I believe is dangerous?**

- Mexico has ratified Convention 155 of the International Labor Organization for worker health and safety and the environment in the workplace. This is the law in Mexico and it protects your right to not perform any work that you believe constitutes a serious and imminent threat to your life or health.
- You do not have to accept any work that you believe could place you in imminent danger.

# Guide to Pesticide Safety

## in Mexico

You have rights in Mexico that help protect you from pesticides.

Foreign workers and workers without a valid permit have the same protections as Mexican workers.

### What are pesticides?

Pesticides are chemicals used to kill bugs, weeds, and other pests.

Pesticides can make you sick or kill you.

Pesticides can be anywhere on farms and in forests, nurseries, and greenhouses.

### Pesticides can be in:

- plants, dirt or irrigation water;
- farm or irrigation equipment;
- places where pesticides are stored or have been stored;
- places where pesticides are loaded, mixed, or thrown away;
- cars or trucks that carry pesticides;
- gear and equipment used to apply, mix, or handle pesticides.

### What do pesticides look like?

Pesticides come in different shapes, sizes, and forms.

### Pesticides can look like:

- a liquid that is sprayed or poured on plants and soil;
- a powder put on plants and soil;
- little pebbles, pellets, or grain;
- a gas or fog that is sprayed, let go, or injected into plants and soil.



### I don't know anything about pesticides. Should someone teach me about them at work?

Your employer is responsible for teaching you, or for hiring someone to teach you and any fellow workers coming into contact with pesticides, about:

- the risks to your health and that other workers coming in contact with pesticides;
- the labels that must appear on pesticide containers and how to use them. All label information must be in Spanish.

If you have any questions, your employer or the person in charge of pesticide training must explain anything you don't understand. Ask if you're not sure.

- Always wash with soap and water after coming into contact with pesticides. Your employer must provide you with these things.
- Always wash your work clothes before going home.

#### **Who will give me work clothes?**

Your employer must give you free work clothes if you are working with pesticides.

#### **Do I have to take a bath after coming into contact with pesticides?**

Yes. A proper bath with soap and water is the only thing that will get rid of pesticides. Never use water from irrigation channels, because it could be contaminated with pesticides.

#### **What happens if I feel sick after coming into contact with pesticides?**

Your employer must give you first aid and then take you to the nearest doctor.

#### **Should there be medicines where I work?**

Yes. Your employer must always have medicine in the workplace. If more than 100 people work for the same employer, there must be a doctor on-site.

#### **What happens if someone in my family feels sick because of pesticides?**

Your employer must also make sure they receive first aid and then take them to the nearest doctor.

#### **Will I still get paid if I am in the hospital?**

- Yes, and not only while you are in the hospital, but until you fully recover.
- If you have an on-the-job injury like pesticide poisoning, you are entitled to receive compensation. For more information see *Guide to On-the-Job Injuries in Mexico*.

#### **If I have problems at work or I get sick because of pesticides, who can I complain to?**

- You should get free legal advice from the Federal Public Labor Defender's Office (Procuraduría de la Defensa del Trabajo).
- Here, a free labor lawyer will tell you if you need to go to the Conciliation and Arbitration Board (Junta de Conciliación y Arbitraje).
- For more information, see *Guide to Resolving Labor Disputes in Mexico*.

#### **Pesticides can hurt you years later**

Pesticides can hurt you months or years after they get on your skin or in your eyes, mouth or lungs.

#### **Pesticides can:**

- Give you cancer
- Hurt your kidneys
- Hurt your liver
- Hurt your nervous system
- Cause birth defects in your children

# Guide to On-the-Job Injuries

## in Mexico

In Mexico, all workers, including foreign workers and workers without valid permits, are entitled to participate in the social security program. The Mexican Social Security Institute (Instituto Mexicano de Seguro Social, IMSS) is responsible for providing several benefits for all insured workers.

This guide talks about insurance for on-the-job injuries.

For information about health insurance, disability insurance and health care, see *Guide to Disability and Health Care in Mexico*. For information about maternity insurance and child-care center benefits, see *Women's Guide to Work and Pregnancy in Mexico*. For information about retirement and life insurance, see *Guide to Social Security and Retirement in Mexico*.

### I got hurt on the job. What can I do?

On-the-job accidents and illnesses that occur because of your job are covered by Social Security.



Accidents that occur while you are on your way to and from work are also considered to be on-the-job accidents, and are covered.

You have a right to Social Security coverage even if the accident was your fault, the fault of one of your co-workers, or your employer's fault.

Accidents that occur while you are on your



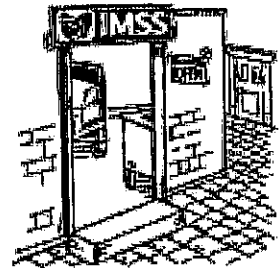
### If I am hurt on the job how do I collect insurance for on-the-job injuries?

There are two steps that you must take before receiving your benefits.

First, report your on-the-job injury to your employer immediately.

Your employer must inform IMSS of the accident or work-related illness.

Then, go to your IMSS clinic to report your injury and see a doctor immediately.





### **Pension for family members**

- If you have no widow or widower, orphans or domestic partner, your parents are insured if they depend on you economically.
- In this case, the pension would be equivalent to 20 percent of the money you would have earned during your lifetime had you been permanently and totally disabled.

If you die because of an on-the-job hazard, your beneficiaries are also entitled to:

- Medical insurance.
- Choose an insurance institution to administer the money in your individual pension account.
- If you have more money in your individual pension account than is required to cover your beneficiaries' pensions, they can decide whether to:
  - a) receive a higher pension; or
  - b) withdraw the extra money from your account.

For more information about individual pension accounts, see *Guide to Social Security and Retirement in Mexico*.

### **Do I have to pay anything to be entitled to Social Security?**

No. Your employer is responsible for paying premiums for insurance for on-the-job injuries.

For more information on wage deductions, see the *Guide to Minimum Employment Standards, Pay Deductions and Severance Pay for Unjustified Firing in Mexico*.

### **What happens if the IMSS rejects my claim for an on-the-job injury?**

You can go to the Federal Public Labor Defender's Office or local offices for Labor Defense (PROFEDET), where you will receive legal consultation and orientation, support for reaching conciliation, and defense in labor courts. These services are free.

You may also file a claim with your local Conciliation and Arbitration Board (Junta de Conciliación y Arbitraje, JCA).

For more information on how the PROFEDET and JCA work, consult *Guide to Resolving Labor Disputes in Mexico*.

### **Social Security for farm workers**

Farm workers work for an employer in farming, livestock and forestry activities.

Farm workers can be:

- permanent salaried workers with an indefinite working relationship; or
- temporary salaried workers hired for a particular job or period.

### **I am a farm worker. Am I entitled to Social Security benefits?**

Yes. Farm workers are entitled to Social Security benefits.

### **What benefits am I entitled to?**

Farm workers are entitled to the same benefits as all other workers, including insurance for on-the-job injuries.



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**Will I get a pension if I do not have enough weekly contributions to qualify for the retirement programs?**

Yes. Social Security Law provides for a guaranteed pension and will supplement your pension contributions if you reach age 60 or 65 and have not paid enough weekly contributions.

If you reach age 60 or 65 and have paid 750 weekly contributions (about 14 years), you are entitled to receive health and maternity insurance.

You may also choose to withdraw all your money from the pension fund if you are 60 or 65 years old and have paid fewer than 1,250 weekly contributions.

Visit your nearest IMSS to explore your options.

**Will my family and I continue to receive health and other IMSS insurance benefits when I retire?**

The Social Security Law guarantees total coverage of its health care, family support, welfare programs and a pension.

When you retire, you and your family continue to be covered by these insurance programs.

For more information about these benefits, see *Guide to Disability and Health Care in Mexico*.

**Will my family be protected financially if I die?**

Yes. The Social Security Law provides life insurance benefits for insured workers.

If you die, the IMSS will give the following to your beneficiaries.

- **Widow's pension.** Your husband, wife or domestic partner will be insured.
- **Orphan's pension.** Your children under age sixteen will be insured.
- **Pension for family members.** If your parents depend on you economically, they will also be insured.
- **Welfare support for pensioned widows.** This support is provided when recommended by the medical examiner's report.

**Health Care**

- Your beneficiaries are entitled to health insurance.
- If you die, your family can ask for help to cover funeral expenses. A family member must present your death certificate and the original invoice covering your funeral costs.

In order to receive life insurance benefits, you need to have paid 150 weekly contributions (about three years) or have a disability pension, and your death must *not* be related to an on-the-job injury.

**How do I sign up for Social Security insurance?**

Your employer is responsible for registering you with the Mexican Social Security Institute. If your employer does not register you, you can register yourself.

**Can I participate in Social Security programs if I don't work for a single employer or if I am self-employed?**

Yes. You can voluntarily register and participate in Social Security programs if you do not have an employer. Your business association, organization or union may also register you and other business owners for group coverage. For more information, contact your local IMSS office.

- Your contribution period is the time you have paid IMSS contributions since you were registered.
- If you earn more than the minimum wage, you make payments in order to obtain social security; if not, they are paid by your employer and the government
- Your employer must give you your IMSS registration sheet (pink sheet) and affiliation number.



# Guide to Disability and Health Care

in Mexico

In Mexico, all workers, including foreign workers and workers without valid permits, are entitled to Social Security. The Mexican Social Security Institute (Instituto Mexicano de Seguro Social, IMSS) is responsible for providing several benefits to all insured workers.

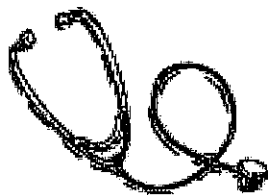
This guide talks about health insurance, disability insurance and health care.

For information about insurance for on-the-job injuries, see *Guide to On-the-Job Injuries in Mexico*. For information about life and retirement insurance, see *Guide to Social Security and Retirement in Mexico*. For information about maternity insurance and child-care center benefits, see *Women's Guide to Work and Pregnancy in Mexico*.

## What happens if I get sick or need to see a doctor and it is not because of my job?

You are covered by Social Security health insurance.

- This insurance covers any illness not related to your work.
- This insurance covers you from the time you become sick for up to 52 weeks for each illness.



In order to receive health insurance, you need to have paid contributions for at least four weeks before getting sick. If you are a casual worker, you are entitled to cash benefits if you have paid at least six weeks of contributions in the four months before you get sick.



## What kinds of benefits are available through the IMSS health insurance program?

You are entitled to medical benefits ("benefits in kind") that cover health care, surgery, medicines, and hospital bills.

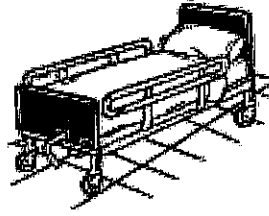
When an illness prevents you from working, you are also entitled to wage benefits.

If you are not able to work for at least four days because of your illness, the Mexican Social Security Institute will compensate you with part of your salary for up to 52 weeks.

If you continue to be sick after 52 weeks, the IMSS can authorize you to receive payment for another 26 weeks.

**If I lose my job, am I still covered?**

Yes. You will continue to receive medical and hospital attention and medicines for eight additional weeks.



In order to remain insured, you need to have paid contributions for at least eight consecutive weeks.

**Can I participate in disability and health care programs even if I don't work for a single employer or am self-employed?**

Yes. You can voluntarily register and participate in Social Security programs if you do not have an employer. Your business association, organization or union may also register you and other business owners for group coverage. For more information, contact your local IMSS office.

**What if I don't work for a single employer and cannot afford health care?**

The IMSS has special clinics in a program called IMSS Solidaridad. You can go to the IMSS or to a Solidaridad clinic and receive free health care even if you do not have or cannot afford IMSS health insurance.

**If you have questions regarding Social Security, you can go to the Service and Orientation Modules for Insured Workers.**

- These modules are located at the entrances to the main medical units in each state, and in Mexico City.
- The people who work in these modules give you advice and answer all your questions on Social Security and your rights.
- These people are called Insured Worker Service and Orientation Technicians. They are easy to identify because they wear green or navy blue uniforms and neckerchiefs with the IMSS initials.
- They also give talks and show videos on these topics in the waiting rooms.

Contact your local IMSS office for more information.



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### **What do I need to get an FMVA?**

You must ask for and complete the FMVA immigration form and present the following documents:

- an official identification with a photograph;
- two passport-size photographs.



### **How do I complete the FMVA immigration form?**

You have to complete the form in block capitals letters and write:

- your full name;
- your address;
- the name of your employer and that of the ranch or ejido where you will work.

### **Do I have to pay for the FMVA?**

No. The FMVA is absolutely free.

### **How long can I stay in Mexico if I have an FMVA?**

If you have an FMVA, you can stay in Mexico for up to one year (365 days).

### **Can I leave Mexico during this time?**

Yes. You can enter and leave Mexico at any time as long as your FMVA is valid.

### **Can I travel in Mexico with the FMVA?**

No. This document authorizes you to travel only in the state of Chiapas.

### **Can I change my job whenever I want to?**

No. Workers with an FMVA are authorized to work only for the employer at the ranch or ejido stated on the original form. You must obtain permission to change your job from the immigration authorities at the office where you originally received your FMVA.

### **What happens if I have an on-the-job accident?**

In Mexico, farm workers are entitled to Social Security (medical insurance). If you have an on-the-job accident, you should go to the nearest Social Security clinic.



For more information, see the *Guide to On-the-Job Injuries in Mexico*.

### **What happens if my employer fires me unfairly?**

If you have problems at work, you should go to the Public Labor Defender's Office (PROFEDET) and/or the Conciliation and Arbitration Board (JCA) and file a claim or complaint.

For more information, see *Guide to Resolving Labor Disputes in Mexico*.

### **What is the minimum wage I should earn?**

In Mexico, your employer must pay you at least the minimum wage. Minimum wages are established according to the type of work and area of the country where you are employed. To find out how much the minimum wage is in your area, contact the labor department nearest you (see the table below).

### **What happens if I lose my FMVA?**

You have to get a document from the Attorney General's Office, and then go to the nearest National Immigration Institute (Instituto Nacional de Migración, INM) office to show that you entered the country with an FMVA. The INM will give you a replacement or a permit to leave Mexico.

### **What do I do when my FMVA expires?**

After a year (365 days), each worker wishing to remain must renew his or her FMVA at the local office where he or she received it.

For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Severance Pay for Unjustified Firing in Mexico*.

# Guide to Resolving Labor Disputes

## in Mexico

In Mexico, all workers have the right to receive free legal assistance from the Federal Public Labor Defender's Office (Procuraduría Federal de la Defensa del Trabajo, PROFEDET), including foreign workers and workers without valid permits.

In Mexico, all individual and collective labor disputes are resolved by Conciliation and Arbitration Boards (Juntas de Conciliación y Arbitraje, JCA). There are Conciliation and Arbitration Boards in every Mexican state.

This guide talks about the services provided by the Public Labor Defender and about how Conciliation and Arbitration Boards work.

### Public Labor Defender

The Public Labor Defender's Office is responsible for advising and representing workers, their beneficiaries, and unions upon request before any authorities involved in the application of labor regulations.



### If I have problems at work, where can I get advice?

You can go to the Federal Public Labor Defender or your local State Public Labor Defender.

- Whether you should go to the federal or state Public Labor Defender's Office depends on the type of work you do.
- Whether you should go to the federal or state Public Labor Defender's Office also depends on what industry the company you work for belongs to.

- The industrial sectors under federal jurisdiction, which are covered by the Federal Public Labor Defender's Office, are:
  - textiles;
  - electricity;
  - cinematography;
  - rubber;
  - sugar;
  - mining;
  - metalwork and steel;
  - hydrocarbons;
  - petrochemicals;
  - cement;
  - limestone quarries;
  - automotive;
  - chemicals;
  - cellulose and paper;

### **What are Conciliation and Arbitration Boards?**

Conciliation and Arbitration Boards (Juntas de Conciliación y Arbitraje, JCA) are responsible for solving labor disputes between workers and their employers.

### **If I have a problem at work, how long do I have to file a complaint with the board?**

You generally have up to a year to go to the board.

In some cases, you have less time.

- You have one month to file a complaint with the appropriate JCA if your employer was wholly responsible for the termination of your labor relationship.
- You have two months if you were fired.
- You have two years if you wish to claim:
  1. payment of compensation; or
  2. enforcement of a board ruling.

If you die on the job, your family has two years to file a claim for benefits with the Conciliation and Arbitration Board.

### **Do I have to explain what I want in writing?**

Yes. The document you need to write is called a claim, and must include:

1. your full name;
2. your address;
3. the name and address of your lawyer if you have one;
4. the name of your employer or, if you do not know the name, the address of the company where you worked and the kind of work you performed;
5. what you want (your claims), such as: back pay, seniority payment, or redress for unjust dismissal;
6. an explanation of what happened; for example, if you were fired, when it happened, what your employer said, why you were fired, etc.

Finally, you need to include the legal provisions that protect you. To do this, you will need the help of a lawyer or the Public Labor Defender.

**Federal Conciliation and Arbitration Board**  
Dr. Andrade No. 45  
Col. Doctores, Deleg. Cuauhtémoc  
Mexico, D.F.  
C.P. 06720  
Switchboard: (55) 5722-8700

*In your state:* See your local telephone directory.

### **What do I have to do when I go to the JCA? How does it work?**

- You have to file your written claim with the Documentation Office (the board office responsible for receiving lawsuits).
- Within one day (24 hours) a date will be set for you and your employer to meet at the JCA.
- The meeting will be within 15 days following the day you filed your claim.
- If the board finds any problems with your claim, it will give you three days to correct them.
- The board must inform you of this meeting 10 days in advance. This meeting is called a hearing.

### **What will happen at the hearing?**

The hearing has three stages.

1. **Conciliation.** Without lawyers, you and your employer will try to reach an agreement (conciliation) to resolve your complaint.
  - If you reach an agreement, the JCA procedure ends.
  - If you do not reach an agreement, the second stage begins.
2. **The claim and exceptions.** You can now have your lawyer with you. During this stage, you will have to explain your claim and say whether you wish it to stand as it is, or if you want to change it. However, you must always clearly explain what you want.
  - If the board believes that your claim still contains errors, it will ask you to change it.

**United States**



**Where do I go if I believe my employer has treated me unfairly because of my sex or race or other qualities I have that make me different?**

You can file a complaint with the federal Equal Employment Opportunity Commission (EEOC), with the state fair employment practices (human rights) agency, and sometimes with a city or county human rights agency.

For more information, see *Guide to Employment Discrimination Laws in the United States* and *Women's Guide to Pregnancy on the Job in the United States*.

You can file a discrimination complaint even if you do not have a valid work permit.

**Will I be deported if I complain about the way my employer treats me or if I seek compensation for an on-the-job injury?**

- Employers sometimes threaten to deport you if you complain about work conditions or try to join a union.
- It is illegal for employers to threaten to deport you if you complain about work conditions. This is called "retaliation."
- You can get protection from being deported if you complain about work conditions.

**This is true even if you do not have a valid work permit.**

**Is there a human rights commission in the United States?**

- There is no national human rights commission in the United States. There are federal civil rights laws that protect people, however.
- Most state, county and city human rights offices accept employment discrimination complaints.
- Many state, county and city human rights offices also accept complaints about housing discrimination and civil rights violations.

**Beware of traffickers**

- It is illegal for a person to tell you that you will get a good job in the United States and then make you sell sex instead.
- It is illegal for a person to take out so much money from your paycheck that you do not receive minimum wage.
- It is illegal for a person to take away your passport to make you work.
- It is illegal for a person to threaten you with violence to make you work.
- A person who does this to you can be sent to federal prison.

If any of these things happens to you in the United States, you should call 1-888-428-7581.

**What do I do if my employer does not pay me the minimum wage or overtime?**

You can file a complaint with the Wage and Hour Division of the Department of Labor. This federal office has an office in most states. You can also file a complaint with the state department of labor.



For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States*

You must be paid the minimum wage even if you do not have a valid work permit.

**What can I do if my employer does not pay me for all of my work or does not pay me at all?**

You can file a complaint with the Wage and Hour Division of the Department of Labor. This federal office has an office in most states. You can also file a complaint with the state department of labor.

Your employer must pay you. You can complain even if you do not have a valid work permit.

For more information, see *Guide to Laws Prohibiting Forced Labor in the United States*.

# Guide to Labor Relations Law in the United States

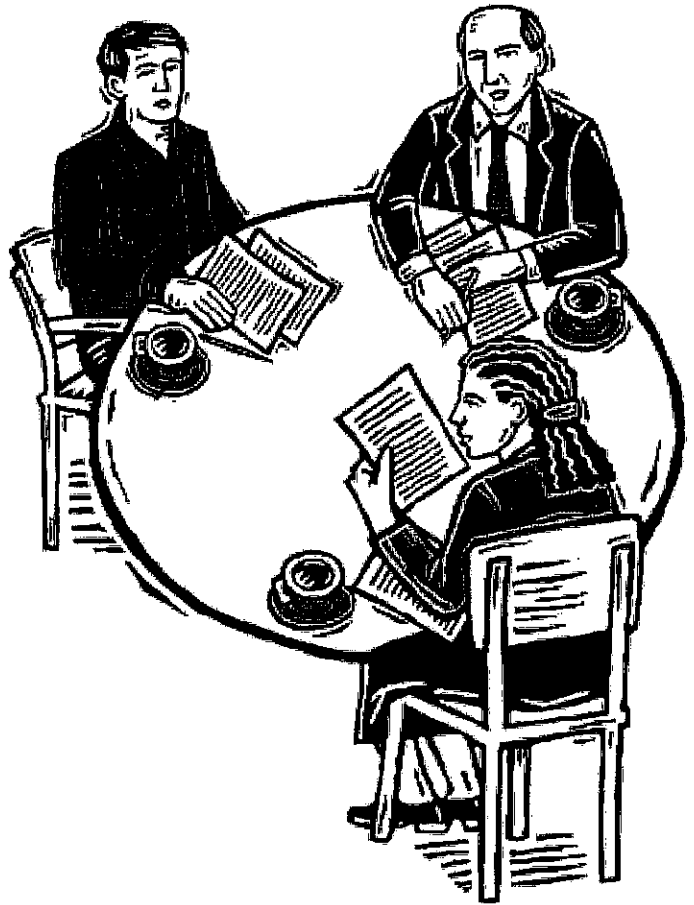
U.S. labor relations law protects workers' labor relations rights. The National Labor Relations Act (NLRA) guarantees covered employees the right to:

- form, join or assist labor organizations to organize the employees of an employer;
- bargain collectively through representatives of their own choosing;
- engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, typically to modify wages or working conditions;
- strike to secure better working conditions;
- refrain from union activity.

## Am I covered?

The rights protected by the NLRA apply only to those workers who fall within the definition of an "employee." The definition excludes agricultural workers (e.g., farm workers), domestic workers (e.g., household workers), managers, supervisors, confidential employees, independent contractors, and employees covered by the Railway Labor Act.

Foreign workers, including undocumented workers (e.g., without a valid work permit), are generally entitled to the same protection under U.S. labor relations laws as other workers. However, certain remedies for unfair labor practices, such as reinstatement or back pay for work not performed, are not available under the NLRA to undocumented workers.



### State labor relations laws and farm workers

Farm workers are excluded from the protection of the NLRA.

Some states have special laws that protect farm workers' rights to organize and bargain collectively.

These states are: Arizona, California, Florida, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Jersey, Oregon, Texas, Washington, Wisconsin, and Wyoming.

For more information, contact the department of labor in the state where you are working.

#### *Union violations*

- Threatening employees with a loss of jobs or benefits unless they support the union's activities.
- Refusing to process a grievance because of a personal bias.
- Fining employees who have validly resigned from the union for engaging in protected activity following their resignation.
- Seeking the discharge of an employee for not complying with a union shop agreement, when the employee has paid or offered to pay a lawful initiation fee and periodic dues.
- Refusing referral or giving preference in a hiring hall on the basis of race or union activities.

Finally, if you are not a union member, but the collective bargaining agreement between the union and your employer requires you to pay the union a fee or dues, you have a right to pay only an amount based on the union's expenses for representational activities.

Contact your union or the NLRB for more information if you think that your labor rights have been violated.

#### **Employers cannot retaliate against workers because workers used their labor rights.**

"Retaliation" means changing your job, wages or hours or firing you because you have used your labor rights.

Employers CANNOT retaliate against workers for:

- using the protections of the law;
- participating in union activity;
- joining or starting a union;
- testifying against the employer.

If your employer has tried to retaliate against you for using your labor rights, contact the NLRB.

#### **What do I do if my rights under the NLRA are violated?**

You can file a charge with the NLRB against the employer or the union that you believe violated your rights.

#### **The National Labor Relations Board (NLRB)**

The NLRB hears unfair labor practice charges and conducts secret ballot elections.

To report unfair labor practices file an unfair labor practice charge with the appropriate NLRB regional office. An NLRB representative will investigate and listen to your case.

To get an election regarding union representation file a representation petition with the NLRB.

To locate the nearest NLRB office, visit the NLRB Web site at [www.nlr.gov](http://www.nlr.gov) or call (202) 273-1991.

#### **Does the union have any duties toward its members?**

Union members have a set of membership rights that help the union run fairly.

Membership rights give union members the right to:

- be treated equally as members;
- speak freely in union affairs;
- vote on union dues;
- run for union offices;
- get a copy of the union constitution and bylaws;
- get a copy of the collective bargaining agreement;
- get union financial information;
- vote without being threatened;
- vote in an election that is run fairly;
- sue the union.

# Guide to Laws Prohibiting Forced Labor in the United States

## What is forced labor?

Forced labor is any work or service that a person is obliged to do against his or her will without payment or under threat.

The Victims of Trafficking and Violence Protection Act of 2000 and other U.S. laws prohibit and sanction forced labor. Your employer could go to prison if he or she breaks the law.

## Know your rights!

- You can work wherever and whenever you wish, providing your work is not illegal.
- No one can force you to provide your services to an employer if you are not paid and do not agree.
- If you are a foreigner, you have the same labor rights as a U.S. resident or citizen, regardless of whether you have a valid work permit.
- If you quit before your contract ends, no one can force you to return to work.

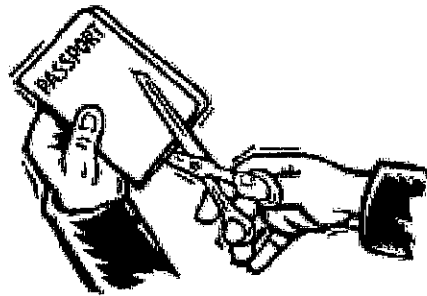
For more information on your labor rights, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States*.

## You must inform the authorities if:

- your employer threatens to physically mistreat you or another person if you leave your job;
- although you are not directly threatened, your employer says things that make you think that you or another person could be hurt if you leave your job;
- your employer attempts to take, keep or destroy your passport or immigration papers;
- your employer tries to stop you from leaving or traveling outside working hours;



- a “coyote” makes you work for free with the excuse of charging you for the “trip”;
- your employer forces you to work to pay a debt;
- your employer forces you to work in prostitution.



# Guide to Child Labor Laws in the United States

**F**ederal and state laws set special standards for children who work in the United States. The purpose of these standards is to ensure children's safety, welfare and access to education.

Child labor laws protect both U.S. and foreign children working in the United States, including foreign child workers without a valid permit.

## **What is child labor?**

Child labor is the work performed by a person under 18 years of age.

A child is also called a "minor."

## **At what age can I start to work in the United States?**

Under federal law, a child who is at least 16 years of age can work in any job that is not hazardous for minors.

There are different rules and age restrictions for minors who do farm work.

## **Is the federal minimum age requirement the only age law I need to know?**

No. Many states have different child labor laws that both minors and employers must follow.

For more information, contact the state labor department in the state where you are working.

## **How much money do minors earn per hour?**

It depends on the situation. For information on pay provisions for minors, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States*.



### **Wage and Hour Division**

The Wage and Hour Division provides information on child labor laws. It also handles complaints about violations of child labor laws.

You can call the Wage and Hour Division toll free at 1-866-4USWAGE (1-866-487-9243) or write to:

Wage and Hour Division  
Employment Standards Administration  
200 Constitution Ave. N.W.  
Washington, DC 20210

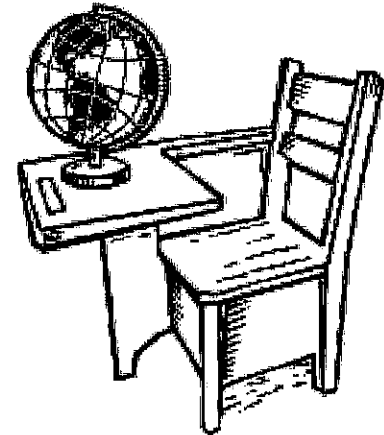
**Hazardous jobs for children 14 and 15 years of age**  
Fourteen and 15-year-olds cannot work in many jobs.

Restricted jobs include:

- jobs hazardous to minors;
- manufacturing, mining, or processing;
- operating a hoisting apparatus or power-driven machinery (other than office machines);
- using or helping on motor vehicles;
- public messenger service;
- transportation of persons or property;
- warehousing, storage or construction;
- communications and public utilities.

**Can a minor under the age of 12 work on a farm?**

Yes. Minors under 12 years of age can work on farms, but only on farms owned and operated by their parents. Minors may also work on a farm not subject to the federal minimum wage if they have written permission from their parents.



**Are children working on a farm subject to the same child labor laws as other children?**

No. There are different child labor rules for minors who work on a farm.

**What is farm work?**

Farm work is all farming and some farming-related activities.

**Can a minor who is under 16 years of age work on a farm?**

Yes. Minors between 14 and 16 years of age can work on a farm during nonschool hours, but not during school hours.

**Can a minor 12 or 13 years old work on a farm?**

Yes. Workers 12 and 13 years old can work on a farm, but only on a farm where their parents work, or on another farm if they have written permission from their parents.

**Dangerous farm jobs**

There are many farm jobs that children cannot do because the jobs are very dangerous.

Workers must be at least 16 years of age to work in farm jobs that are hazardous according to the law.

Hazardous agricultural jobs include:

- operating a tractor with more than 20 PTO horsepower;
- using powered circular, band, and chain saws;
- working on a ladder or scaffold higher than 20 feet off the ground;
- riding on a tractor as a passenger or helper;
- handling or applying poisonous chemicals, including pesticides.

For more information on hazardous farm jobs, please contact the Wage and Hour Division at 1-866-487-9243.



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**Are farm workers paid the minimum wage?**

Yes. Most farm workers are entitled to the minimum wage under federal law.



**Exceptions to the minimum wage**

Some workers do not have to be paid the minimum wage.

These workers include:

- employees that are immediate family members of the employer;
- managers, supervisors, and confidential employees;
- some student learners.

For more information on the minimum wage, contact the Wage and Hour Division at 1-866-4USWAGE (1-866-487-9243) or write to: Wage and Hour Division  
Employment Standards Administration  
200 Constitution Ave. N.W.  
Washington, DC 20210

**Many states also have minimum wage laws.**

Some states have a minimum wage rate that is higher than the federal minimum wage.

If the state minimum wage is higher than the federal minimum wage, then you must be paid the state minimum wage.

Also, some states do not have a youth minimum wage.

For more information on state minimum wages, contact your local state employment agency or call 1-866-487-9243.

**Do undocumented workers receive the minimum wage?**

Yes. Employers cannot refuse to pay workers the minimum wage simply because the workers do not have valid work permits.

**What is overtime pay?**

Overtime pay is the additional pay per hour that a worker is entitled to be paid for all hours worked over 40 hours in a seven-day period.

**How much overtime pay should I receive?**

Overtime pay is one and one-half (1.5) times your hourly rate of pay.

**Can I agree to give up the right to receive overtime pay?**

No. Overtime pay cannot be waived.

**Do farm workers have a right to receive overtime pay?**

No. The law does not require that farm workers be paid overtime pay, but they do receive their normal rate of pay for each hour they work.

However, farm workers who do nonfarm work receive overtime pay.

**Do undocumented workers receive overtime pay?**

Yes. Your employer may not deny you overtime pay because you do not have a valid work permit.

### **Check all deductions**

You should look at your paycheck carefully and make sure that all deductions are correct.

You should talk to your employer about deductions you believe are incorrect, contact the local state employment agency, or call 1-866-487-9243.

### **What happens if I lose my job?**



If you lose your job for any reason other than misconduct, you may be able to collect unemployment compensation. Unemployment compensation is money paid to eligible workers when they lose their jobs to replace lost earnings, when they provide proof that they are looking for another job.

For more information, contact your local state employment office.

### **Unemployment compensation claims**

Here are some tips about filing an unemployment compensation claim.

- Contact your local state unemployment agency as soon as possible after losing your job.
- Be prepared to answer questions about the addresses and dates of former employment.
- Give complete and correct information to avoid delays.
- Appeal promptly if you are denied unemployment compensation benefits.

### **Am I entitled to a paid vacation?**

No. U.S. law does not require employers to provide workers with a paid vacation. If you qualify, you may be able to take off up to 12 weeks of unpaid leave under the Family Medical Leave Act, however.

### **What is the Family Medical Leave Act?**

The Family Medical Leave Act (FMLA) is a law that allows certain employees to take leave from work for specific reasons.

Employees can take leave for:

- the birth and care of the employee's newborn child;
- adoption or foster care placement of a child;
- care of a child, spouse or parent with a serious health condition;
- the employee's serious health condition.

### **Who qualifies for FMLA leave?**

To qualify for FMLA leave, employees must:

- work for a covered employer;
- need time off for a reason that is covered under the act;
- have worked at least 12 months with the current employer;
- have worked 1,250 hours or more in the year before requesting time off;
- work at a worksite with at least 50 employees or within 75 miles of 49 other employees of the same employer.

You may be able to receive 12 work weeks of unpaid leave for each 12 months of work with the same employer.

For more information, you should contact your state employment agency.



# Guide to Employment Discrimination Laws in the United States

**I**t is illegal for your employer to treat you unfairly because of your race, color, national origin, sex, religion, age, or disability. This is called employment discrimination.

## What does discrimination mean?

Discrimination means that your employer treats you differently or unfairly because of your race, color, national origin, sex, religion, age, or disability.

**Harassment.** It is also illegal for your employer, supervisor or coworkers to harass you on the job because you are of a different race, color, national origin, sex, religion, or age or because you have a disability.

- If your coworkers make fun of you, hang nooses in the locker room, hang dirty pictures of men or women, or say bad things about people from your country, this may be illegal harassment under the law.
- You should tell your employer or supervisor that you are being harassed.

## Sexual harassment

My boss says I can't have a job unless I go on a date with him. Is that okay?

It is definitely not okay. It is called sexual harassment and it is illegal.

Discrimination can happen *before* you get a job, *while* you are working, or *at the end* of a job.



**The job ad.** An employer cannot advertise for only one kind of person to fill a position.

**The interview.** An employer cannot make sexist or racist remarks in the interview, or ask questions about your disability.

An employer cannot ask only women if they are married or have or are going to have children, if it will affect the decision whether to hire them.

**What happens if I file a complaint with the state, city or county FEPA?**

- Every FEPA is different, so call the FEPA in your state or community to find out its rules.
- Many FEPAs are similar to the EEOC. They will investigate and try to mediate discrimination complaints.
- Unlike the EEOC, some FEPAs have a hearing process and issue a decision like a court decision.
- You and your employer can appeal the FEPA's decision if you disagree with the outcome.

**Know the law of the state where you work**

- In the United States, federal law protects you from employment discrimination.
- There are also laws that protect you from discrimination in 48 states, the District of Columbia and the U.S. territories, including Puerto Rico, the Virgin Islands, the Marianas Islands, and Guam.

**How do I choose where to file my discrimination complaint if there is more than one office in my community to choose from?**

It is not easy to say whether it's better to file your complaint with the EEOC or with the state FEPA. It depends on the state and sometimes the city where you live.

Some things to think about:

- How big is my employer? Federal discrimination law protects you only from employers that have 15 or more employees. If you work for a small employer, it may be better for you to file with the state or city commission.
- Which law offers more protection to people in my group? Some states and cities have laws that cover more groups or more people than others. For more information, you should call the EEOC branch office or the FEPA in your city or state.

Do not worry if you file your complaint in the wrong office. The EEOC has work-sharing agreements with state and local offices and should send your complaint to the right office.

**Some states cover more employers than the EEOC does.**

Federal discrimination law covers employers that have at least 15 employees. For discrimination based on age, federal law covers employers that have at least 20 employees.

Thirty-six states and territories cover smaller employers.

- At least one employee: Alaska, Colorado, District of Columbia, Hawaii, Maine, Michigan, Minnesota, Montana, New Jersey, North Dakota, Oregon, Puerto Rico, South Dakota, Utah, Vermont, Virginia, and Wisconsin
- At least two employees: The Virgin Islands and Wyoming
- At least three employees: Connecticut
- At least four employees: Delaware, Iowa, Kansas, New Mexico, New York, Ohio, Pennsylvania, and Rhode Island
- At least five employees: California and Idaho
- At least six employees: Indiana, Massachusetts, Missouri, and New Hampshire
- At least eight employees: Kentucky, Tennessee and Washington
- At least nine employees: Arkansas
- At least 12 employees: West Virginia

**When should I file a complaint?**

You have 180 days (six months) from the date on which you were discriminated against to file a discrimination complaint with the EEOC. In some states, the EEOC allows you 300 days (a little less than a year) to file your complaint. Some states provide longer periods.

Do not wait too long before you file a complaint. You will lose your rights if you wait too long.

# Women's Guide to Pregnancy on the Job in the United States

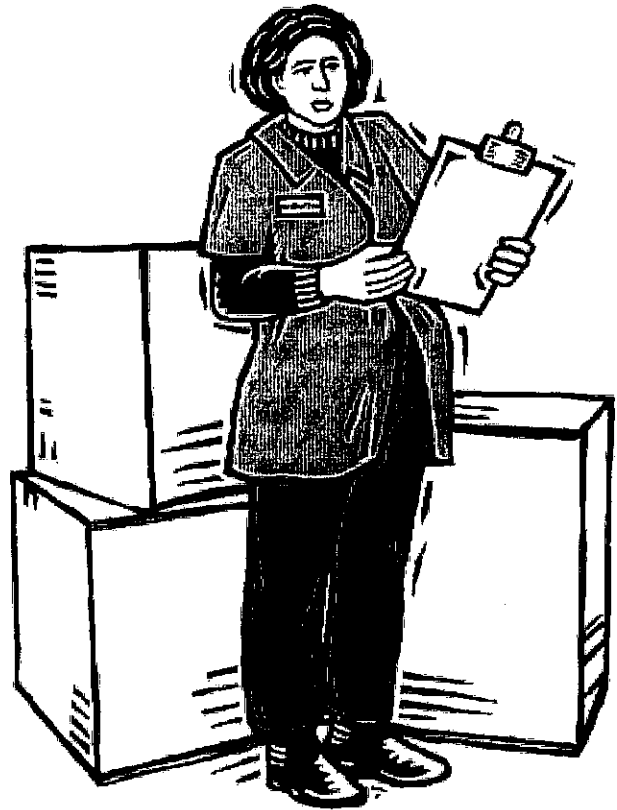
In the United States, there are federal and state laws that make it illegal for employers to fire or to refuse to hire a woman because she is pregnant.

The federal law fully protects U.S. citizens and permanent legal residents. Workers without a valid work permit are also protected under discrimination law, but may not be eligible for all public benefits programs.

The federal law considers pregnancy a "temporary disability." Under the law, employers with 15 or more workers must give pregnant workers the same benefits as it gives to workers with other temporary disabilities.

Some state laws protect workers of employers that have fewer than 15 employees. Many states require employers to give pregnant workers certain benefits regardless of whether they give them to other workers.

Depending on how many workers your employer has, you might be protected by federal or state laws or by both.



## Applying for a job during pregnancy

- It is against the law for an employer to refuse to hire a woman because she is pregnant.
- If you are pregnant at the time that you apply for a job, you do not have to tell the employer that you are pregnant.
- An employer may not normally ask you whether you are now pregnant or plan to become pregnant in the future.

## Am I protected?

- |                    |   |
|--------------------|---|
| <b>Federal law</b> | Yes, but only if your employer has at least 15 employees.                             |
| <b>State law</b>   | Yes, and some state laws protect you even if your employer has fewer than 15 workers. |

### **Does my employer have to give me my job back when I return from maternity leave?**

- Federal law requires your employer to hold your job open for you if it does the same for other workers with temporary disabilities.
- You must be given the same position or another position with the same wages and benefits.
- Many states also require smaller employers to do the same.
- A few states protect pregnant workers' jobs during maternity leave even if employers do not give other workers the same protection.
- Remember: it is important to know the laws of the state where you are working.
- For more information, contact your state office for worker's occupational safety and health.

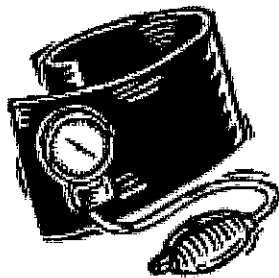
### **What can I do if an employer discriminates against me because I am pregnant?**

- If an employer discriminates against you because of your pregnancy, you may be able to file a complaint with the Equal Employment Opportunity Commission (EEOC).
- You can reach the EEOC at: 1-800-669-4000.
- Most states have human rights or civil rights offices that can also help.

For more information see *Guide to Employment Discrimination Laws in the United States*.

### **Will my employer pay for my prenatal health care?**

- If your employer does not offer health insurance, the law does not require the employer to provide it to pregnant workers alone.
- If your employer provides health insurance that covers temporary disabilities, then the employer must choose a plan that also covers pregnancy.
- If you are a farm worker with a valid work permit, there are many migrant health clinics in the United States where you can get prenatal care.



### **Getting prenatal care**

#### **Migrant health clinics**

- Migrant farm workers, including legal permanent residents and workers without a valid work permit, can get free prenatal care at one of the migrant health clinics throughout the country.
- The federal government considers childbirth to be an "emergency service." That means that the cost of childbirth will still be paid for anyone in the U.S. who cannot afford to pay for it.

#### **Medicaid**

- Permanent legal residents (except elderly and disabled persons) who arrived in the U.S. after 1996 can no longer receive Medicaid. Medicaid is the government health insurance program for the poor.
- In most states, most temporary legal residents and undocumented workers do not qualify for Medicaid.
- BUT, in California and Washington they can receive prenatal care during at least part of their pregnancy.

### **Safety of pregnant workers**

- Federal and state laws require employers to maintain a healthy and safe work environment for all workers, including pregnant workers.
- Your employer cannot force you to work in an environment that is a danger to your health and safety.
- For more information, see *Guide to On-the-Job Safety and Health in the United States*.

### **Breastfeeding**

In two states (Georgia and Minnesota), employers must provide break time and a private place for mothers who need to breastfeed their infants or to express breast milk.

# Guide to On-the-Job Safety and Health in the United States

In the United States, there are federal and state laws that require employers to maintain a healthy and safe work environment for their workers.

The federal law is called the Occupational Safety and Health Act (OSH Act). This law also created the Occupational Safety and Health Administration (OSHA).

All workers, including those without a valid work permit, are entitled to a safe and healthy workplace.

There are some special laws that protect the health and safety of farm workers (see below).

## **Why should I care about workplace safety?**

The purpose of work safety laws is to protect workers like you. If employers and workers all follow the rules, you are more likely to avoid getting hurt and you can keep earning money to support yourself and your family.

## **What are my rights as a worker?**

The federal OSH Act and similar state laws give workers the right to a safe and healthy workplace. The law gives you the right to:

- get training and information from your employer about workplace hazards, OSHA rules and worker's rights;
- ask your employer to correct hazards or violations of OSH rules;
- ask OSHA to investigate your work site to find out if it is unsafe;
- file a complaint with OSHA if you believe your workplace is unsafe;
- be involved in OSHA's inspections of your workplace and to find out the results;
- file a discrimination complaint if an employer tries to punish you for reporting a safety violation.



## **What are my employer's responsibilities?**

The OSH Act requires employers to keep a safe and healthy workplace for workers. The law requires employers to:

- obey OSH standards and rules;
- hang the OSHA Poster, which tells workers about their rights and responsibilities. The poster must be placed in an area where workers will most likely see it;
- make sure that employees have and use safety equipment or tools that are kept in good condition;
- use color codes, posters, labels or signs to warn employees about dangerous work areas;

### **How do I file a complaint?**

- You may file a complaint by calling the OSHA office closest to your job.
- Complaints can be made over the phone or in writing.

If you do not wish to file the complaint yourself, you can have a friend call for you. It does not matter whether the person making the complaint works there.

### **What happens after a complaint is filed?**

- Once OSHA has reviewed your complaint, it will decide whether an on-site inspection or an off-site investigation is necessary.
- An off-site investigation is informal and is done by telephone. The employer has up to five days to explain any hazards that are found and the corrections that have been or will be made. The person who filed the complaint will receive a copy of the employer's response.
- If the situation is more serious, OSHA or the state office may decide to do an on-site inspection. During an inspection, inspectors check the work site, discuss safety concerns with workers, and may issue notices of any safety or health hazards. This notice (called a "citation") gives employers a deadline for fixing the problem.
- An on-site inspection is more likely to happen if you make your complaint in writing and sign it.



### **Can my boss fire me if I file a complaint?**

No. It is against the law for your employer to discriminate against you for reporting unsafe work conditions.

The law considers it to be discrimination if your employer does any of the following things to you for reporting a hazard:

- fires you;
- places you in a lower position;
- transfers you to another job;
- reduces your work hours or pay or takes away your benefits.

If any of these things happens to you, OSHA can help protect your job. To get help, you must file a discrimination complaint with OSHA against your employer within 30 days.

### **What happens if I get hurt on the job?**

- If you are injured or become sick on the job, you may be eligible for workers' compensation.
- Farm workers, including H-2A and foreign workers without a valid permit, are eligible for workers' compensation in most states.
- Workers' compensation pays for lost wages and medical expenses for work-related illnesses and injuries.

For more information, see *Guide to On-the-Job Injuries in the United States*.



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### What do pesticides look like?

Pesticides come in different shapes, sizes, and forms.

#### Pesticides can look like:

- a liquid that is sprayed or poured on plants and soil;
- a powder put on plants and soil;
- little pebbles, pellets, or grain;
- a gas or fog that is sprayed, let go, or injected into plants and soil.

### What are my employer's responsibilities?

#### Your employer must:

- tell you if pesticides have been used on your job in the last 30 hours;
- train you in pesticide safety if pesticides are used where you work or if you must use pesticides;
- keep soap, water, and towels at your job if pesticides have been sprayed where you work in the last 30 days;
- train you how to use pesticides before you do any handling task or enter a field that has been treated with pesticides;
- tell workers and handlers where the signs, posters, and other pesticide information are located;
- allow workers and handlers access to the information;
- tell doctors the name of pesticides that have hurt workers;
- put up pesticide signs on places where pesticides are used or may drift on you;
- tell you to stay out of places that do not have pesticide signs up.



### Signs and posters

Make sure you read all signs and posters.

Your employer must put up three kinds of signs or posters.

#### The three signs or posters are:

- pesticide signs (when a pesticide is used or about to be used);
- emergency information signs;
- pesticide safety posters (if pesticides are used at your job).

All signs must be placed where it is easy for you to see and read them.

#### The pesticide signs must:

- say where the pesticide will be used;
- describe the area treated with the pesticide;
- give the name of the pesticide;
- state the time and date the pesticide will be used;
- state how long you must wait to reenter the field;
- give the Environmental Protection Agency (EPA) registration number and active pesticide ingredients.

Emergency information signs must have the name, telephone number, and address of the nearest emergency medical facility

#### Pesticide safety posters must be:

- the Worker Protection Standard (WPS) safety poster or an equivalent poster;
- kept up-to-date by the employer.

If your employer violates these rules, call 1-800-858-7378.

### **How do I know if I have been harmed by pesticides?**

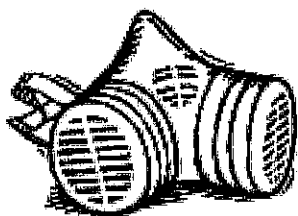
Pesticides can be very dangerous, and they can harm you in many ways.

Pesticides harm both men and women.

#### **Pesticides can:**

- Hurt your nose
- Hurt your throat
- Hurt your eyes
- Cause rashes on your skin
- Cause your muscles to twitch
- Cause your urine to look smoky
- Cause your nose to run
- Cause your body to shake
- Cause your stomach to hurt
- Cause permanent brain damage
- Cause problems with seeing
- Cause problems with thinking
- Give you a headache
- Give you muscle pains
- Give you cramps
- Give you blisters
- Give you ulcers
- Give you a heart attack
- Make you feel sick
- Make you sweat a lot
- Make you feel dizzy
- Make you drool
- Make you have trouble breathing
- Make it hard for you to speak
- Make you confused

There is not enough room in this guide to list all the ways that pesticides can hurt you!



**Protect yourself  
at all times and  
follow all safety  
rules!**

### **Pesticides can hurt you years later**

Pesticides can hurt you months or years after they get on your skin or in your eyes, mouth or lungs.

#### **Pesticides can:**

- Give you cancer
- Hurt your kidneys
- Hurt your liver
- Hurt your nervous system
- Cause birth defects in your children

### **What do I do if I am harmed by pesticides?**

If you think pesticides have hurt you, then go to a doctor right away.

Pesticides can hurt you if you get them on your skin, get them in your eyes, swallow them, or breathe them.

#### **If pesticides get on your clothes**

- Take off the clothes that have the pesticide on them.
- Get help right away.

#### **If pesticides get on your skin**

- Use water to rinse the pesticide off.
- Get help right away.

#### **If you breathe pesticides**

- Get away from the pesticides.
- Get fresh air.
- Get help right away.

#### **If pesticides get in your eyes**

- Hold your eyes open and rinse them with cool water for 15 minutes.
- Get help right away.

Also, take the pesticide label with you to the doctor if you can.



# Guide to On-the-Job Injuries

## in the United States

### I got hurt on the job. What can I do?

- If you are hurt on the job you have a right to workers' compensation benefits.
- You have a right to workers' compensation whether the accident was your fault, the fault of one of your coworkers, or your employer's fault.

### Know your rights

- You are entitled to workers' compensation benefits if you are hurt on the job.
- Your employer may not retaliate against you if you file a claim for workers' compensation.
- You have a right to an appeal if your claim for workers' compensation is denied.

Even if you are a foreign worker without a valid work permit, you are entitled to workers' compensation coverage. This is true in every state.

- Do not drink or take drugs on the job. You may lose your right to workers' compensation if you do this. Even if your drinking or use of drugs did not cause the accident, you may still be denied workers' compensation.

### What is workers' compensation?

- Workers' compensation is a state-based insurance system that provides benefits to you if you are hurt on the job or as a result of your job.
- Each state has its own workers' compensation law, but the general principles are the same. You should call the workers' compensation agency in the state where you are working to find out more.



- In most states, employers are required to obtain workers' compensation insurance for their workers. In a few states, a government agency insures employers for workers' compensation. These states are North Dakota, Ohio, Washington, West Virginia, and Wyoming.
- You are guaranteed medical and wage benefits if you are hurt on the job or because of your job.

### Can I choose my own health care provider (doctor) to treat my on-the-job injury?

- Not always. In workers' compensation circles, doctors and other professionals (like physical therapists) are called "health care providers."
- Every state has different rules for how to choose a health care provider.
  - Sometimes the rules for choosing a health care provider are complex.
  - In some states, like New Mexico, if you choose your health care provider first, your employer can change the health care provider after 60 days – but if your employer chooses first, you get to change after 60 days.
  - Contact the workers' compensation agency in the state where you were injured to find out more about the rules in that state.
- Your employer chooses the health care provider in Alabama, Florida, Idaho, Indiana, Iowa, Kansas, Missouri, New Jersey, North Carolina, South Carolina, Utah, and Vermont.
- You can choose your own health care provider in Alaska, Arizona, Connecticut, Delaware, Hawaii, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, and South Dakota.
- In the District of Columbia and New York you can choose a health care provider from a list the workers' compensation agency gives you.
- In Georgia, Tennessee and Virginia you can choose a health care provider from a list your employer gives you.

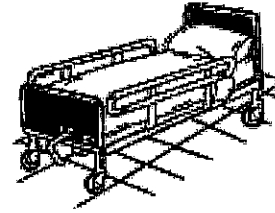
**Important:** Make sure that the health care provider is independent and has your best interests in mind.

- Selecting a health care provider is an important step in being compensated and treated for your workplace injury.
- Be honest and open with your health care provider in order to get a report that is a true statement of your medical condition.

### What medical expenses are covered?

Every state law is different, but most state workers' compensation laws require payment for:

- emergency treatment;
- hospital care;
- physical therapy
- treatment by a health care provider (doctor);
- physical rehabilitation; and
- cost of travel to health care providers far away from your home.



### Can I sue my employer if I am hurt on the job?

- No. Workers' compensation laws are a compromise between the interests of workers and employers. The idea is that workers receive prompt benefits in exchange for employers being free from lawsuits.
- You can file a workers' compensation claim, however.

### Prevent injury by working safely

- You and your employer share responsibility for a safe workplace.
- Follow the safety instructions on all equipment and materials you use at work.
- If you do not follow safety procedures, you put yourself, your coworkers and your job in jeopardy.
- For more information about on-the-job safety, see *Guide to On-the-Job Safety and Health in the United States*.

#### **What if I don't receive benefits on time?**

- Employers must report your on-the-job injury to the workers' compensation insurance carrier and/or to the workers' compensation agency within a short time.
- The workers' compensation carrier must either deny your claim or issue benefits to you in a short time.
- If the employer or the workers' compensation carrier does not meet the deadlines, both can be fined or required to pay extra benefits.

#### **Death benefits**

- If you die on the job, your spouse and children are entitled to death benefits in every state.
- In some states, foreign workers with wives, husbands and children living in another country may receive less than those of other workers.
- If you are the wife, husband or child of a worker who died on the job in the United States, you should contact your country's consulate in the United States to help you receive the benefits you are entitled to because of the death of your spouse or parent.

#### **Types of disability covered in most states**

- **TTD – Temporary Total Disability.** You receive TTD benefits when your health care provider says you are unable to work because of your on-the-job injury. Depending on the state you are in, you may receive 60 to 70 percent of your weekly salary while you are not working. These payments will stop when your health care provider says you are well enough to return to work.
- **TPD – Temporary Partial Disability.** You may receive TPD benefits if:
  - you can work, BUT
  - the work is "lighter" than your normal job (light duty), AND
  - the job you are performing pays less than what you normally earn.You may receive some portion of the difference between your normal salary and the lower salary.
- **PPD – Permanent Partial Disability.** You may receive PPD benefits if your health care provider says you will have a lifelong partial disability as the result of your on-the-job injury.
- **PTD – Permanent Total Disability.** If you are so disabled by your on-the-job injury that you will never be able to work again, you may receive PTD benefits. Usually there is a limit on how long you can receive these benefits.

Every state may define these terms slightly differently. Call the workers' compensation agency in the state where you were injured to learn more.



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### **Survivors of deceased workers**

When you die, certain family members may be able to get survivors benefits if you have enough credits. Family members can include:

- your spouse age 60 or older (or 50 or older if he or she is disabled; or any age if he or she is caring for a child under 16 or a disabled child who qualifies for a child SS benefit).
- unmarried children under 18 (under 19 if a full-time elementary or secondary school student), or 18 or older and disabled;
- parents who depend on you as their primary means of support.

If you are divorced, your unmarried ex-spouse could be eligible for widow(er)'s benefits on your record. The number of credits you need for survivors benefits depends on your age when you die. The younger you are, the fewer credits are required. The amount of the benefits your family will get depends on how much money you earned.

### **Family benefits**

Family members who depend on retired workers who receive SS benefits can also qualify for benefits. These family members can include:

- a spouse age 62 or older, or under age 62 if he or she is caring for a child under 16 or a disabled child who qualifies for a child SS benefit; and
- unmarried children under age 18 (under 19 if a full-time elementary or secondary school student), or 18 or older and disabled. If you are divorced, your unmarried ex-spouse could be eligible for benefits on your record. There are limits to how much any single family can receive.

### **Medicare**

- Medicare is a health insurance plan for people aged 65 or older and disabled workers who receive disability benefits.
- For more information on how Medicare works, see *Guide to Disability and Health Care in the United States*.

### **Who pays for the Social Security program?**

- The Social Security system is paid for by workers and employers.
- Your employer withholds Social Security taxes from your pay, matches this amount, and sends the funds to the Internal Revenue Service (IRS, the government office that collects taxes).
- The law requires your employer to report your earnings to the Social Security Administration (SSA). The SSA uses your social security number to keep track of your earnings.

### **What are "credits"?**

- As you pay into the system, you earn "credits," which allow you to qualify for SS benefits.
- You can earn up to four credits each year.
- To earn each credit, you must earn a minimum amount of money. In 2003, you earn one credit for each \$890, up to four credits. Each year the minimum amount of earnings needed to earn a credit rises.
- Most people need 40 credits (or credits equal to about ten years of work) to get retirement benefits.

### **Do I have enough credits to get SS benefits?**

- To find out how many SS credits you have, you can contact the SSA to get a copy of your current SS statement. (If you are 25 or older, the SSA will mail you a statement each year.)
- The statement tells you how many credits you have.
- You can call the Social Security Administration at: 1-800-772-1213. Both English and Spanish are spoken.

#### **What about household workers?**

- A "domestic" or "household" worker is someone who works in the employer's household, such as a gardener, housekeeper, cook, or baby-sitter.
- If you are a temporary or permanent legal resident with permission to work in the U.S., you are covered by Social Security laws.
- If you are paid a certain minimum amount in a year (in 2003, at least \$1,400) from one employer, that employer must pay Social Security and Medicare taxes and report your earnings to the SSA.
- Domestic workers begin earning credit in a given year if they have the required minimum earnings for the year.

#### **How can I make sure my employer is making Social Security contributions?**

- If you are paid by check, the SS deduction should be labeled FICA on your pay slip.
- BUT, even if you are paid in cash, your employer must withhold SS taxes. By law, your employer must pay those taxes to the IRS.
- It is critical that your employer reports your earnings to the Social Security Administration to earn credits.
- You can make sure that your employer has paid SS taxes and reported your earnings by getting a copy of your SS statement from the SSA.
- If your employer makes FICA deductions but does not send them to the IRS, your employer can be fined or in some cases jailed.

#### **How much will I get in retirement benefits?**

- The amount will depend on how much you earned in Social Security covered employment in the past. Usually, workers who earn more, get more.
- HOWEVER, low-income workers receive a larger percentage of their past covered earnings than do people who earned more money.

#### **What if I become disabled or reach retirement age and do not have enough credits?**

You may be eligible for Supplemental Security Income (SSI).

- The SSI program makes monthly payments to people who have low income and few resources. Some people can get both Social Security benefits and SSI.
- To get SSI, you must be a U.S. citizen who is 65 or older or is blind or disabled.
- Under new U.S. laws, only certain disabled and older aliens who entered the U.S. after 1996 can receive SSI benefits. HOWEVER, elderly and disabled immigrants who had been receiving SS before 1996 can continue to get their benefits. Elderly and disabled immigrants who entered the U.S. before 1996 may qualify for SSI under the old law.
- The amount of your SSI benefit depends on your income and the state in which you live.
- In general, most people who get SSI also qualify for Medicaid, food stamps and other assistance.

# Guide to Disability and Health Care in the United States

**S**ocial Security (SS) is a government program that pays monthly benefits to:

- workers who are disabled;
- retired workers;
- certain family members of retired, disabled, or deceased workers.

Social Security also includes Medicare, a health insurance program for persons 65 and over and certain disabled workers.

Foreign workers with valid U.S. work permits may receive Social Security disability benefits if they qualify.

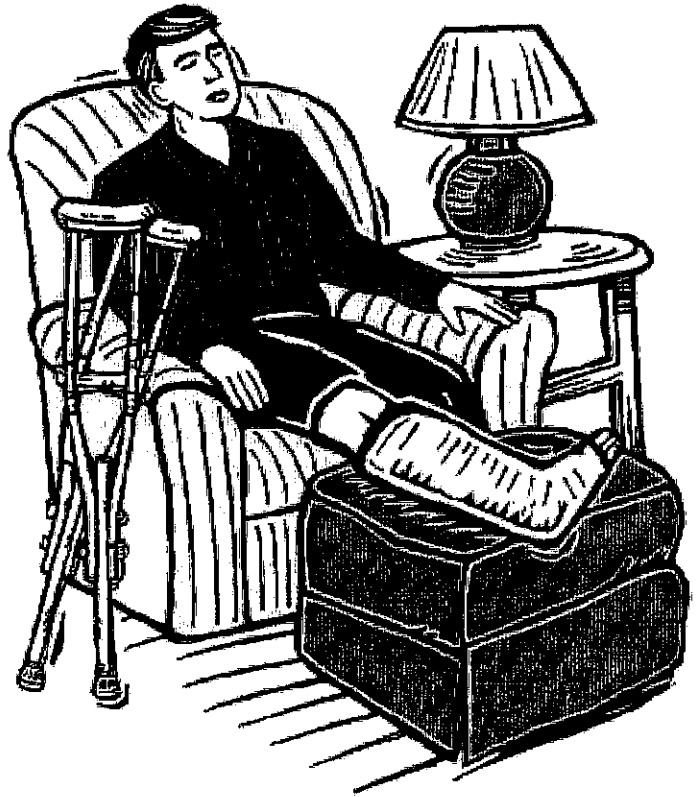
Foreign workers who are not lawfully present in the U.S. may not receive Social Security disability benefits. Most migrant health clinics provide services to workers without valid work permits, however.

This guide will discuss: disability, family support, survivor, and Medicare benefits.

For information on retirement, see *Guide to Social Security and Retirement in the United States*.

## **Why is Social Security important to me?**

Social Security can help workers and their families in crisis. If you become sick and cannot work, Social Security Disability Insurance benefits can help support you and family members who depend on you. Social Security Old-Age and Survivors Insurance benefits can help provide similar support after you retire or if you pass away.



## **Who qualifies for Social Security disability benefits?**

### **Disability Benefit**

- Disability benefits are for workers of any age who have enough Social Security credits and who have a "severe" physical or mental condition that is expected to keep them from being able to work for one year or more, or that is expected to cause their death.
- Payments do not start until five months after you become disabled.
- Disabled workers who have been getting disability benefits for two years can also get Medicare to cover their medical expenses.

### **How does Social Security work?**

For more information on who pays for Social Security and how it works, see *Guide to Social Security and Retirement in the United States*.

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### **How much will I get in disability benefits?**

- The amount will depend on how much you earned in Social Security covered employment in the past. Usually, workers who earn more get more.
- HOWEVER, low-income workers receive a larger percentage of their past covered earnings than do people who earned more money.

### **What if I don't have enough credits for disability benefits?**

You may qualify for Supplemental Security Income (SSI).

- The SSI program makes monthly payments to people who have low income and few resources. Some people can get both Social Security benefits and SSI.
- To get SSI, you must be a U.S. citizen who is 65 or older or is blind or disabled.
- Under new U.S. laws, only certain disabled and older aliens who entered the U.S. after 1996 can receive SSI benefits. HOWEVER, elderly and disabled immigrants who received SS before 1996 can continue to get their benefits. Elderly and disabled immigrants who entered the U.S. before 1996 may qualify for SSI under the old law.
- The amount of your SSI benefit depends on your income and the state where you live.
- In general, most people who get SSI also qualify for Medicaid, food stamps and other assistance.

### **Health care for migrant farm workers**

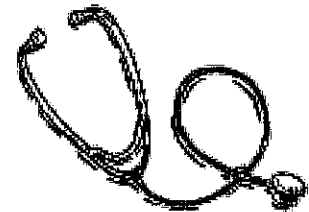
#### **Migrant health clinics**

- If you are a farm worker you can get low-cost health care for yourself and your children at one of the migrant health clinics throughout the country.
- Migrant health clinics provide services to foreign workers, including workers without a valid work permit.
- To locate the clinic nearest to you, contact "Call for Health" at: 1-800-377-9968. English and Spanish are spoken.
- Children who are U.S. citizens from low-income families can get health insurance under another government program called CHIP. Children who are U.S. citizens can apply even if their parents do not have a valid work permit.
- Noncitizen children of migrant farm workers can receive care at migrant health clinics as well.

### **Will I be able to collect disability benefits if I get hurt or sick on the job?**

- If you are permanently disabled — even if it is because you were hurt on the job — you may be able to apply for and receive disability benefits.
- You may also be able to get workers' compensation, which can pay part of your wages and medical expenses.
- Every state has a worker's compensation insurance program, but migrant and seasonal farm workers are not eligible in all states.

For more information see *Guide to On-the-Job Injuries in the United States*.



# Guide to the H-2A Visa Program

## in the United States

### What is the H-2A visa program?

The H-2A visa program allows foreign workers to do farm work in the U.S.

Foreign workers enter into contracts with employers, and then come to work in the U.S.

Workers go back to their home country when the contract is over.

Both women and men may participate in the H-2A visa program.

### Can I earn less than the minimum wage?

No. Workers must not be paid less than the federal or state minimum wage, whichever is higher.

### Can I earn more than the minimum wage?

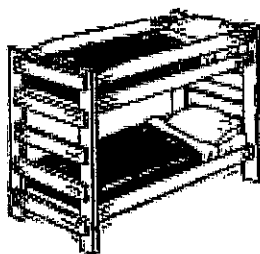
Workers in the H-2A program may be paid a higher wage rate called the adverse effect wage rate (AEWR).

The Labor Department calculates this rate based on how much other farm workers in the area are paid. For example, if the minimum wage is \$5.15/hour but local farm workers earn \$7.00/hour, H-2A workers must be paid \$7.00/hour.

To find out what the AEWR is, contact the Wage and Hour Division (see box) or the nearest state labor office.

### Is housing provided to H-2A workers?

Yes. Employers must provide free housing that meets safety and health standards established by law.



However, workers may have to pay for any damage they cause to the property.

### What do H-2A workers do for meals?

The employer must give each worker three low-cost meals per day and disclose the cost in the worker contract, or give free cooking facilities.





**Can workers on H-2A visas work for a different employer than the employer in their contract?**

No. Workers must work only for the employer contracted.

**Workers must also work:**

- at the location contracted;
- only for the period of time contracted;
- on the crop activity contracted;
- at the rate of pay contracted.

**Wage deductions for H-2A workers**

Your employer will deduct expenses and taxes from your check.

Expenses and taxes are different.

**Taxes are:**

- State income tax
- City or local income tax (if any)

**Expenses are the costs of:**

- Meals
- Merchandise
- Utilities

Your employer must provide meals or merchandise before their cost can be deducted from your check.

Your employer cannot deduct expenses from your check if it will lower your wage below the minimum wage.

For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States* or call 1-866-487-9243.

**Do I have to work all of the hours in my contract?**

No. Workers can refuse hours.

**Is my employer required to offer me hours?**

Yes. The employer is required to offer you a certain number of hours in your contract.

The employer must offer three-fourths (3/4) of the total work hours listed in the contract.

**What happens if my employer does not offer the required hours?**

Even your employer does not offer the required hours, the employer must pay you for the required hours.

**What happens if something prevents the contract from being fulfilled?**

If it is impossible to fulfill the remainder of the contract and it is not the employer's fault, the employer must pay the worker three-fourths (3/4) of the total hours stated in the contract. The employer must also pay the worker for inbound as well as return transportation.

**What happens if I am fired without cause?**

Workers who are fired without sufficient cause must be paid their return transportation and the full three-fourths guarantee (see box).

# Guide to the H-2B Temporary Work Visa Program

in the United States

**T**he H-2B program is a temporary work visa program for foreign workers in nonfarm jobs.

Both women and men may participate in the H-2B visa program.

## **Do I need any special qualifications to apply for this program?**

No. This program is for both skilled and unskilled workers and has no formal educational requirements.

## **Do I need a job to apply for the H-2B visa?**

Yes. You cannot apply without first proving you have a job waiting for you. Your employer must go through a two-step process.

1. He or she must apply for a temporary labor certification from the Department of Labor for your job.
2. He or she must apply for an H-2B visa for you through the Bureau of Citizenship and Immigration Services (BCIS).

## **How long can I work in the United States with the H-2B visa?**

- You can stay in the U.S. for a period of one year. After one year you can apply for a one-year extension. The maximum time you can stay in the U.S., including extensions, is three years.
- After your visa expires, you must either leave the U.S. or apply for an extension. If you have made an extension application, you may stay in the U.S. until your application is approved or denied.



## **Can I change employers?**

No. Employers go through a long application process. If you do not wish to work for the employer who first hired you, you must file a new application.

### **Am I entitled to be paid for overtime?**

Yes. You must be paid at least one and one-half (1.5) times your wage for every hour above 40 hours worked per week. If you are being paid by piece rate, you may be paid one and one-half times the piece rate.

### **What do I do if my employer does not pay me the minimum wage or violates my other rights?**

You are entitled to the same labor and employment protections as other workers in the United States.

- If your employer does not pay you the minimum wage, or if your rights are violated, you can complain to the state or federal labor department.
- The Wage and Hour Division of the Department of Labor will ensure that an investigator looks into your complaint.
- For information on your rights or to make a complaint, contact the Department of Labor at 1-800-959-3652.

For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States*.

### **I work on a farm. Does this mean I am a farm worker under the law?**

Not necessarily.

This may sound strange to you, but working on a farm does not always mean you are considered a "farm worker" under U.S. law. This is important to know, because a farm worker has different rights than other workers. Sometimes you might be a farm worker under one law and not under another law.

To find out more, contact the Department of Labor or the nearest legal aid office.

### **What if I get hurt on the job?**

- If you are hurt on the job, you are entitled to workers' compensation in most states.
- In a few states, farm workers are excluded or are entitled only to optional coverage.
- In a few states, nonresidents receive limited benefits.
- For more information see *Guide to On-the-Job Injuries in the United States*.

### **Know your rights**

- You have the right to be paid at least the minimum wage.
- You have a right to be paid overtime, if you work over 40 hours a week.
- You have the right to a safe working environment in accordance with the Occupational Safety and Health Act (OSHA).
- You may be protected by the Fair Labor Standards Act.
- Your employer cannot retaliate against you if you file a complaint.
- If your employment ends before your contract expires, your employer must pay for your transportation back to your home city.



Commission for Labor Cooperation

### **Can the farm labor contractor or grower transport me to the field?**

Growers and farm labor contractors who provide you with transportation must:

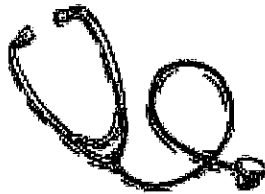
- meet all safety standards, including Department of Labor regulations;
- make sure that drivers are licensed;
- have insurance that protects you in case of an accident.

You have the right to refuse unsafe transportation.

### **What should I know before I go to the field with a farm labor contractor?**

The person who recruits you as a farm worker must tell you:

- where you will work;
- for how long;
- how much you will be making per hour or per piece;
- what kinds of work you will be doing and on what crops;
- what transportation arrangements exist;
- what housing arrangements exist;
- whether there is a strike or other problem at the place of employment.
- whether state workers' compensation insurance is provided and information about such insurance;
- whether there is any sales arrangement whereby the grower, grower's association, or farm labor contractor will receive a benefit from sales made by any party to the workers.



#### **You can receive information in your own language**

- Growers and farm labor contractors must give information to you in your own language whenever possible.

#### **Housing must meet health and safety standards**

Any person who owns or controls housing used by migrant farm workers must make sure that the housing meets federal and state safety and health standards.

- A government agent must certify that the housing meets these standards.
- The person who provides you with housing must also post a copy of the government certification at the housing site for you to see.
- Minimum standards include a working toilet and washing facilities.
- Housing must be clean when you arrive and during the period you stay there.

#### **Is there anything else my employer should tell me?**

Your employer must give you this information in writing:

- how much you are being paid per piece or per hour;
- if you are paid per piece, how many pieces you completed;
- if you are paid per hour, how many hours you worked;
- how much money you have earned in a pay period;
- how much money that you earned was deducted or taken from your pay;
- the total amount of money you have earned before any deductions.

#### **Wages and work conditions**

- You have a right to receive wages owed to you as soon as they are due and to be paid at least twice a month.
- You have a right to expect that the wages and working conditions you have been promised will be changed only if necessary.
- You have a right to be paid the minimum wage, even if you are being paid a piece rate. For more information, see *Guide to Minimum Employment Standards, Pay Deductions and Unemployment Compensation in the United States*.