

## **Live in Caregivers**

Many live in caregivers are temporary foreign workers brought to Canada to work under the Government of Canada's Live-In Caregiver Program (LCP) which is part of the Temporary Foreign Worker Program. The Employment Standards Code defines these workers as Domestic Workers and creates minimum standards for their employment. This fact sheet provides information that clarifies what wages need to be paid and what records need to be kept by employers of live-in care givers.

### **What legislation applies to Live-in Caregivers/Domestic Workers?**

The Worker Recruitment and Protection Act (WRAPA) and the Employment Standards Code apply to Live-in Caregivers recruited under the Live-in Caregiver Program.

You have now received your business registration as required by WRAPA. This allows you to recruit your worker. The Live-in Caregiver Program requires the employer obtain a Labour Market Opinion from Human Resources and Skills Development Canada (HRSDC) before a live-in caregiver can be recruited.

### **Who pays the fees associated with recruiting foreign workers?**

Employers are responsible for paying any recruitment fees. *The Worker Recruitment and Protection Act* strictly prohibits charging fees to workers.

### **Can fees be charged to a worker?**

No. Neither a recruiter nor an employer can ever charge or collect a fee (directly or indirectly) from the worker.

### **How are workers protected from being charged fees?**

Employment Standards conducts inspections and investigations to ensure employees are not being charged fees.

In situations where an employee has been charged a fee, it will be ordered to be repaid. The licence could also be revoked and the licence holder could be subject to fines as high as \$25, 000 - \$50,000. Directors and officers of a corporation will also be subject to a \$25,000 fine.

## **What records must an employer keep when recruiting a foreign worker?**

Complete and accurate financial operations records must be kept for at least three years, as well as records that show:

- The worker's name, address, and telephone number, job title, and the location where they do most of their work
- Expenses incurred (directly or indirectly) by the employer, or an employee of the employer, during a recruiting process
- A copy of the Labour Market Impact Assessment and all contract/agreements entered into with foreign workers and recruiters

## **What records are employers required to maintain?**

Employers must keep records for all employees that show:

- Name, address, date of birth, and occupation
- The date the employment started
- The regular wage and overtime wage at the start of employment and whenever the wage rate changes
- The regular and overtime hours of work, recorded separately and daily
- Date wages are paid and the amount paid on each date
- Deductions from wages, and the reason for each deduction
- If applicable, overtime that is banked with the written agreement of the employee and employer and the dates the employee takes the banked time off with pay
- The dates on which general holidays are taken
- The employee's hours of work on a general holiday and the wages paid
- Start and end dates of annual vacations, the period of employment in which the vacation is earned, and the date and amount of vacation wages paid
- The amount of any outstanding vacation wages when the employment ends and the date this is paid to the employee
- Copies of documents on maternity leave, parental leave, compassionate care leave or other leaves, including dates and number of days taken as leave
- Dates of termination of the employment
- Copies of work schedules

If an employee is paid a monthly or annual salary, it can be divided into an hourly wage for record keeping purposes. Regular hours of work are not required to be recorded if they do not vary on a daily basis, but any overtime or other changes should be recorded.

## **What are the minimum standards for terms and conditions of employment?**

The minimum standards for all workers, including live-in caregivers are established by the Employment Standards Code.

Temporary Foreign Workers hired to work as Live in Caregivers must be paid as described in the Labour Market Opinion (LMO). The LMO sets the terms and conditions that a temporary foreign worker can be hired.

These terms and conditions are established by Human Resources and Skills Development Canada. These include requirements for wage rate, maximum hours of work, charges for room and board and the amount of vacation.

More information on the requirements can be found on their website at: <http://www.hrsdc.gc.ca/>

## **Do domestic workers get a day of rest?**

Employers must ensure domestic workers get 36 consecutive hours of rest each week where they are free from all work duties.

If requested, domestic workers may agree to work during their rest period; however employers must:

- Pay overtime wages for these hours (whether or not they are hours of overtime), or
- Lengthen one of the rest periods by the number of hours worked within the next 8 weeks.

## **Are domestic workers paid for overtime?**

Domestic workers get overtime pay like other employees. Time that is free from work duties, such as eating, resting, sleeping, or attending to private business or interests, is not included in the calculation of overtime because it is not time that has been worked. More information can be found on the [Overtime](#) fact sheet.

## **When must employees be paid?**

Employees must be paid at least twice a month, within 10 working days of the end of a pay period. If the employment is terminated, employees must be paid within 10 working days from the date of termination.

## **Can employers charge for uniforms?**

Employers can require employees to wear a uniform; however, they cannot make an employee pay for it. Uniforms are usually clothing that is unique to a business, identified with the employer's logo, symbol, name, or colours; making it of no practical use outside of that workplace. Employees often have no choice in style, colour, or where to buy it. For more information on required clothing see the [Deductions](#) fact sheet.

## **Do domestic workers get general holidays?**

Domestic workers are entitled to have the day off and to be paid general holiday pay, which is calculated at 5% of their gross regular wages in the 28 days before the general holiday. If they work, they are entitled to 1 ½ times

their regular wages for the day or another regular day off with pay within the next 30 days. More information can be found on the [General Holidays](#) fact sheet.

## **Can the terms and conditions of a foreign worker's job be changed?**

Foreign workers, including workers with temporary status, have the same rights as all other workers in Manitoba.

Foreign workers are further protected by the conditions upon which they were allowed to work in Manitoba. This means employers cannot reduce the terms and conditions of the employment contract or Labour Market Impact Assessment, even if the worker agrees. Employment Standards will enforce the negotiated rate of pay and benefits as the minimum standards.

## **If an employer hires a temporary foreign worker and needs to lay them off, what happens?**

If an employer lays off a temporary foreign worker, it is necessary to contact Employment Standards to discuss what steps should be taken to inform and support the worker. Employment Skills Development Canada and Citizenship and Immigration Canada must also be notified.

## **What if there is no job when the foreign worker arrives?**

Employers are required to immediately report any changes to Employment Standards. Employers are responsible for paying any benefits promised during the recruitment process such as transportation costs to and from Manitoba. Employment Skills Development Canada and Citizenship and Immigration Canada must also be notified.

## **For more information contact Employment Standards:**

Phone: 204-945-3352 or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

Website: [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards)

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including The Employment Standards Code, The Construction Industry Wages Act, The Worker Recruitment and Protection Act, or contact Employment Standards.

**Available in alternate formats  
upon request.**

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