

Changes to Employment Standards in Agriculture

Recently the Province of Manitoba has announced changes to who is covered by Employment Standards legislation in the Agriculture industry. These changes come into effect on June 30, 2008. This fact sheet explains who is covered by what provisions of *The Employment Standards Code*. More information about the specific Employment Standards can be found in our [Guide to Employment Standards in Agriculture](#).

Employment Standards in Agriculture at a glance

The chart below lists the most common Employment Standards provisions and to whom they apply in agriculture:

Employment Standards Provision	Workers employment by agricultural companies that provide services to farms	Farm workers in climate controlled facilities	Farm workers, employed on a farm, by a farmer	Farm workers employed by family members
Equal wages	yes	yes	yes	yes
Payment of wages	yes	yes	yes	yes
Employment records	yes	yes	yes	yes
Minimum wage	yes	yes	yes	no
Termination notice	yes	yes	yes	no
Child employment	yes	yes	yes	no
Vacations	yes	yes	yes	no
Weekly day of rest	yes	yes	yes	no
Work breaks	yes	yes	yes	no
Unpaid leaves	yes	yes	yes	no
Restrictions on deductions from pay	yes	yes	yes	no
Hours of work and overtime	yes	yes	no	no
Reporting pay	yes	yes	no	no
General Holidays	yes	yes	no	no

Who is covered by *The Employment Standards Code*?

Employees are covered by *The Employment Standards Code* unless they are specifically excluded. Some types of employees working in agriculture are excluded from some standards.

Who was excluded from *The Employment Standards Code*?

Before June 30, 2008 employees in agriculture were excluded from most of *The Employment Standards Code*. These employees have always had some protections including being paid their promised wages, no discrimination in wage rates between men and women doing the same amount and type of work, and their employers had to keep records.

As of June 30 , 2008 who is covered by *The Employment Standards Code*?

Under *The Employment Standards Code* there are four broad categories of workers in agriculture. Different provisions apply to each of these categories.

Employees employed by agriculture companies that provide services to farms and farmers are covered by all provisions of *The Employment Standards Code*. These are employees who work for individuals or companies that do not own the farm where the work is being done.

Similarly **Employees who work in climate controlled facilities** are also covered by all of the provisions of *The Employment Standards Code*.

Employees who work on a farm in the primary production of agricultural products on that farm are covered by most of the provisions of *The Employment Standards Code*, but are excluded from reporting pay, general holiday and overtime provisions.

Employees who work on a farm that is owned by a member of their family are excluded from the same provisions of *The Employment Standards Code* as they were before June 30, 2008. For them the legislation is exactly the same.

What are agriculture companies that provide services to farms and farmers?

These are businesses that provide services to farms, but do not own the farms where the work is being done. This includes businesses that provide services like custom combining, chicken catching crews, manure removal or other services in the agriculture industry. Employees of this type of employer are covered by all provisions of *The Employment Standards Code*. The limited exclusion of farm workers is for employees who work on one farm, for one employer (farmer) who owns that farm, directly in the production of agricultural products.

What are climate controlled facilities where all or substantially all the employee's work is performed?

This covers employees who normally work in one or more climate controlled facilities. Examples would include some mushroom plants, poultry facilities, hog barns or greenhouses.

What an employee is hired to do is a determining factor when considering if all or substantially all of the employee's work is performed in climate controlled facilities. If an employee is hired to work in a climate controlled facility like some hog barns or greenhouses they are covered by *The Employment Standards Code*, even if they work outside for part of their duties.

This is different than an employee who is hired to work on a mixed farm where part of the duties may occur in climate controlled facilities but other tasks are outside. That employee is excluded from overtime, general holidays and reporting pay because they do not do substantially all of their work in a climate controlled facility.

The way weather and climate effect the job someone is hired to do can be a factor when considering if an employee is covered or excluded from general holidays, reporting pay, hours of work and overtime. Employers operating climate controlled facilities are less dependant on the weather and therefore are better able to schedule the hours worked by their employees.

Employees hired to work in these conditions are covered by all the provisions of *The Employment Standards Code*.

What about employees who spend one season in climate controlled facilities, and the rest of the year working both indoors and outside?

The question that must be asked is what was the employee hired to do? If they are hired to work a combination of outside on the farm and inside a climate controlled facility, they would not be entitled to protections regarding overtime, hours of work, general holidays or wages for reporting to work.

For example: an employee of a vegetable farm, who works outside tending to the crop for part of the year, and then works in a climate controlled facility during the winter for grading, packaging and shipping, would not be employed all or substantially all of their time in a climate controlled facility.

Are farm workers covered by the Employment Standards Code?

Yes, general farm workers who work on a farm directly in the production of agricultural products are covered by *The Employment Standards Code*, but only for specific provisions. General farm workers must be paid according to *The Employment Standards Code* in regards to:

- Minimum Wage
- Deductions from Wages
- Ending Employment
- Vacations and Vacation Pay
- Unpaid Leave
- Work Breaks and a Day of Rest
- Child Employment
- Equal Pay
- Employment Records

Does this include family members working on a farm owned by someone in the family?

No, the legislation excludes family members working on a farm owned by a member of the family. The employer must still keep records, pay what was promised and follow the rules regarding equal wages for men and women, however the rest of the minimum standards do not apply.

Who are considered family members?

Family is defined very broadly for Employment Standards purposes. Children, stepchildren, parents, grandparents, spouses, common law spouses, brothers, sisters, step-brothers, step-sisters, aunts, uncles, nieces and nephews are all considered family members. The definition also includes those who are not related, but are considered a family member.

What about farms owned by a family farm corporation?

Employees of a family farm corporation are considered to be working for their family if the corporation is controlled by one or more members of the employees family.

Where can I find more information about specific provisions that apply in agriculture?

The [Employment Standards website](#) has information on most Employment Standards issues. [A Guide to Employment Standards in Agriculture](#) provides an overview of the major issues, and how they apply to agriculture workers.

When do the changes regarding employees working in agriculture come into effect?

The new regulations regarding agriculture workers came into effect June 30, 2008.

For more information contact Employment Standards:

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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* and *The Worker Recruitment and Protection Act*, or contact Employment Standards to ask for advice.

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