

## **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 as part of a recruitment process.

### **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?**

The Employment Standards Branch will conduct inspections and investigations to ensure fees are not connected to seeking or finding work.

If it is discovered a worker is charged, either the recruiter or the employer will be ordered to repay the fees. In addition to repayment, if the recruiter was involved they will lose their licence and be subject to fines as high as \$25,000.00 – \$50,000.00. Directors and officers of a corporation will also be subject to a \$25,000.00 fine. If an employer is involved, their recruitment registration will be cancelled.

## What records must I keep as an employer 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 workers 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 Opinion 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
- date the employee starts work
- regular wage and overtime wage when employment starts, the dates of changes to the wage and the new wage
- regular and overtime hours of work, recorded separately and daily
- dates wages are paid and the amount paid on each date;
- deductions from wages, dates and reasons for each deduction
- dates of time off taken instead of overtime wages
- dates each general holiday is taken
- dates and wages paid for hours worked or required to be worked on a general holiday;
- start dates of annual vacations, dates work resumes, period of employment in which it is earned, amount of vacation allowance paid and date paid
- amount of outstanding vacation allowance paid upon termination, and payment date
- 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

Employment Standards requires employers to keep these records for at least 3 years. It is important to note that other agencies, such as the Canada Revenue Agency, may require employers to keep different types of records, for different lengths of time.

## 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?**

Domestic workers must get 36 consecutive hours each week where they are not required to work. If the employers ask, and domestic workers agree, they can work instead of taking the time off. The domestic workers are either, paid overtime wages for that time (whether it is overtime or not), or paid regular wages, the additional hours worked off as part of their rest period, sometime in the next eight weeks.

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

Domestic workers get overtime pay like other employees. More information can be found on the [Overtime](#) page. Time that employers agree is free of work duties, or time when domestic workers are eating, resting, sleeping or attending to private business or interests is not considered time worked and is not included in the calculation of overtime.

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

Employees must be paid within 10 working days of the end of a pay period, or 10 working days from the end of employment, if the employment is terminated.

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

No, employers cannot charge employees for uniforms nor can they ask or expect workers to buy them. Employers are to provide uniforms at no charge to workers. Employers can also require a dress code. For more information on required clothing see the [Deductions](#) page.

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

Domestic workers are entitled to have the day off and to be paid general holiday pay. 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](#) page.

## **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 Opinion, even if the worker agrees. Employment Standards will enforce the negotiated rate of pay and benefits as the minimum standards.

## **If I hire a temporary foreign worker and need to lay them off, what happens?**

If you are laying off a temporary foreign worker, please contact the Employment Standards Division to discuss what steps should be taken to inform and support the worker. You should also notify Service Canada and Citizenship and Immigration Canada.

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

The registration process requires employers 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. You should also notify Service Canada and Citizenship and Immigration Canada.

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

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

Fax: 204-948-3046

E-mail: [employmentstandards@gov.mb.ca](mailto:employmentstandards@gov.mb.ca)

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

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