



EMPLOYMENT STANDARDS FOR AGRICULTURAL WORKERS

FACT SHEET

Introduction

On June 30, 2008, the Province of Manitoba enacted more comprehensive Employment Standards for Agriculture workers (with the exception of farm workers employed by family members). Changes to the definition of agricultural worker now make the type of farming operation define the extent of minimum employment standard coverage. This fact sheet provides an overview of the issues that employers in the agriculture sector need to be aware of.

Information contained in this document is believed to be up to date and accurate. Manitoba Pork Council does not guarantee the accuracy of the material, nor can it accept responsibility for its completeness. Readers should refer to *A Guide to Employment Standards in Agriculture*, at http://www.gov.mb.ca/labour/standards/category_agriculture_factsheet.html or call the Employment Standards Branch at 1-800-821-4307.

Employment Standards in Agriculture at a glance (Manitoba Employment Standards Branch)

(Chart lists the most common employment standards provisions and to whom they apply in agriculture.)

Employment Standard 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 record	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

Equal Wages

Employers determine the wage rate for their employees. Employees cannot have separate wage schedules for male and female employees if the kind of work and the amount of work required done by the employees is the same or substantially the same.

Payment of Wages

Employees must be paid at least 2 times a month. They must be paid within 10 days of the end of a pay period.

Employment Records

Employers must keep records for all employees that show:

- name, address, date of birth and occupation
- date employee starts work
- regular wage and overtime wage when employment starts
- dates wages are paid and the amount paid on each date
- deduction from wages, dates and reasons for each deduction
- dates of time taken off instead of overtime wages
- a date when 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

Minimum Wage

The current minimum wage is \$8.50

Termination Notice

Employees who have worked for an employer more than 30 days but less than a year must give at least one week's notice before the last day they plan to work. After employees have completed one full year with the same employer, at two weeks' notice is required.

If an employer wishes to terminate an employee, he must give notice of termination or pay wages equal to what would normally be earned during the notice. This is called "wages in lieu" of notice. The notice period varies depending how long employees have worked. The amount of notice employers must provide employees is:

- less than one year-one week notice
- at least one year and less than three years-two weeks' notice
- at least three years and less than five years-four weeks' notice
- at least five years and less than 10 year-six weeks' notice
- at least ten year-eight weeks' notice

In the first 30 days of employment, legislation states that employers and employees have the right to end working relationships without notice.

There are circumstances when employers and employees do not need to give notice of termination. These circumstances are:

- employment is for specific length of time or specific task or job
- for casual employment and when employees have substantial control over whether they accept shifts or not and are not penalized by employers for choosing not to work
- employees act in a manner that constitutes willful misconduct, disobedience or willful neglect of duty and behavior that not condoned by the employer
- if employees act in a manner that is violent in the workplace or is dishonest in the course of employment
- when employees are placed on a temporary layoff

Child Employment

Children under 12 years of age are only allowed to work for an employer in exceptional circumstances. Employees under 16 years old must have a permit from the Employment Standards Branch before they can work.

Vacations

After completing one year with an employer, employees must receive two weeks' vacation. After completing their fifth year with the same employer, employees must receive three weeks' vacation.

Vacation pay is calculated based on earnings in the previous year. For each week of vacation, employees earn 2% of their gross wages as vacation pay. Employers may pay vacation pay on every cheque, although employees are still entitled to take time off as vacation, but will not receive any additional vacation pay while they are off because it has already been paid on each cheque.

Weekly Day of Rest

The employer controls scheduling. Employees are entitled to one day of rest each week. The week is a seven-day period, so an employee could work up to 12 days in a row without a day of rest. Employees can choose to work, instead of taking their day of rest if requested to do by their employers; however they must be given a day of rest if they wish. There is no requirement for the day of rest to be scheduled.

Work Breaks

Employees are entitled to a 30-minute unpaid break after 5 hours of work. The employee must be free from duties while on his/her break. When employees choose to work through their breaks or do not take a day off, either from their own decision or by their employer, the employee must be properly paid.

Unpaid Leaves

There is no requirement for an employer to provide paid sick leave, although they may choose to do so. There are six unpaid leave options for employees after they have worked for the employer for 30 days, they are:

- Maternity Leave – 17 weeks – for an employee expecting to give birth to a child
- Parental Leave – 37 weeks – for parents to care for their new child

- Family Leave - 3 days – for an employee to deal with family responsibilities or personal illness
- Compassionate Care Leave – 8 weeks- for an employee to care for a very ill family member
- Bereavement Leave- 3 days- for an employee to deal with the death of a family member
- Reservist Leave – When needed for service- An employee in the Canadian Forces Reserve who needs time to serve

Restrictions on Deductions from Pay

Employer can deduct:

- statutory deductions
- court orders or garnishments
- charges for board, lodging and meals as permitted under The Employment Standards Code
- recovery of pay advances and corrections of payroll errors
- the minimum amount payable by the employer for a red light or photo radar ticket with the employees written permission
- any other deduction agreed to by the employees as long as it directly benefits the employees

Employers cannot deduct the costs of:

- vehicle, equipment and tool repair or loss
- breakage or other damages
- faulty work or poor quality work
- theft
- cash shortages, inventory shortages
- safety equipment
- uniforms and special clothing required by employers
- business supplies, education expenses that only benefit the employer
- interest charges or other fees for cash advances or cashing cheque
- any other deduction that are of no direct benefit to the employees

Hours of Work and Overtime

Standard hours of work are the hour's employee's work for their regular wage. It is usually 40 hours in a week and eight hours in a day. However, employers can increase standard hours in a week through an employer contract. An employment contract can be written to stipulate standard hours to be 50 hours per week. Hours worked over what is determined to be standard hour's needs to be paid at 1 ½ times the regular wage unless there are conditions set out for averaging. If your farm regularly works over 40 hours per week, then you may want to consider developing a 50-hour work week. This approach is managed through a work contract specifically designed for barn employees. Manitoba Pork Council, in conjunction with legal counsel and The Employment Standards Branch, has developed such a contract. If you require a copy for own use, please contact Manitoba Pork Council.

Instead of remuneration, employees and employer can agree in writing to bank overtime as time off. The agreement must include time off at 1 ½ times the number of overtime hours worked.

Averaging can take place over a two-week period (14 days). During this period, hours worked per day for the two week period are added and determined if over what is set out as a standard hours of work for a two-week period. If hours exceed the two week threshold, then overtime is paid. Averaging above a two week period (more than 14 days) requires an averaging permit. An averaging permit application can be found at:
www.manitoba.ca/labour/standards/forms.html

Employees cannot work overtime without knowledge or permission of their employer. If the employer asks, allows or acknowledges the overtime work, it must be paid at the overtime wage.

Banked time must be taken within three months of being earned, unless the director of the Employment Standards Branch authorizes a longer period.

Reporting Pay

Employees who work for three hours or more are paid their regular wage for all hours worked. Employees scheduled to work three hours or more but work less than three hours are paid for the three hours at their regular wage. Employees scheduled to work less than three hours and who work less than their scheduled hours are entitled to their regular wage for the full scheduled hours.

General Holidays

There are eight general holidays throughout the year:

1. New Year's Day
2. Louis Riel Day
3. Good Friday
4. Victoria Day
5. Canada Day
6. Labour Day
7. Thanksgiving Day
8. Christmas Day

General Holiday amounts to 5% of an employee's total wages in the four week period immediately before the holiday. Overtime should not be calculated in this calculation. For an employee who works the same number of hours, five days a week, the 5% calculation will equal his/her day off.

If an employee works on a general holiday, he/she normally entitled to 1 ½ times their regular rate of pay for the hours worked. In addition they also receive their general holiday pay. Employers can move a general holiday to another day with agreement from the employee or as stipulated within an employment contract. Remuneration for the 1 ½ rate of pay for the General Holiday can be included within the salary of the employee contract.

Employment Contract

If you would like a copy of a general employment contract, please call Manitoba Pork Council at 237-7447 or 1-888-893-7447.