

Farm Workers

Definition of a 'Farm Worker'

A farm worker is defined in the Employment Standards Regulation as a person employed in a farming, ranching, orchard or agricultural operation and whose principal employment responsibilities consist of any of the following:

- Growing, raising, keeping, cultivating, propagating, harvesting or slaughtering the product of any of the above operations.
- Clearing, draining, irrigating or cultivating land.
- Operating or using farm machinery, equipment or materials for the above purposes.
- Direct selling of a product of any of the above operations if the sales are done at the operation and are only done during the normal harvest cycle for that product.
- The initial washing, cleaning, sorting, grading or packing of an unaltered product produced by the operation, or a similar product purchased from another operation during the normal harvest cycle for that product.

A farm worker does not include any of the following:

- A person employed to process the products of a farming, ranching, orchard or agricultural operation.
- A landscape gardener or person employed in a retail nursery.
- A person employed in aquaculture.

Farm workers are covered by most sections of the *Employment Standards Act* and *Regulation* with certain important exceptions described below.

Minimum Wage

Farm workers who harvest specified crops by hand may be paid by piece rate. If an employer chooses to pay a piece rate, farm workers must be paid at least the minimum piece rate for each crop as set out in the Regulation. These piece rates are listed below.

Where farm workers are being paid on a piece rate basis, the employer must post notices stating:

- The volume of the picking containers;
- The volume or weight of the crop needed to fill a container; and
- The piece rate for the crop.

All other farm workers, whether they are paid hourly, by salary or by any other method must be paid **at least** the minimum wage as follows:

May 1, 2011 – \$8.75 per hour;

November 1, 2011 – \$9.50 per hour; and

May 1, 2012 – \$10.25 per hour.

Note: Farm workers under the Seasonal Agricultural Worker Program (SAWP) must be paid in accordance with the SAWP contract. For further information on the SAWP contract, please contact Human Resources and Skills Development Canada at 604-687-7803 or toll-free within British Columbia at 1-888-246-7712.

Paying wages

All farm workers must be paid **at least** twice a month.

Hourly and salaried farm workers must be paid all wages within eight days of the end of the pay period.

Piece-rate harvesters may be paid at least 80 percent of total estimated wages owing at the middle of each month. All remaining wages must be paid within eight days of the end of the month.

Licensed Farm Labour Contractors must pay wages directly to the employee's bank account.

Deductions from Wages

An employer must not, directly or indirectly, withhold, deduct or offset any employee's earnings except for statutory deductions required by law (i.e. income tax, CPP and EI) or with the written authorization of the employee.

Regardless of an employee's written authorization, an employer cannot require an employee to pay any portion of an employer's cost of doing business.

Overtime

Farm workers are not entitled to overtime pay. However, an employer must not require or allow a farm worker to work excessive hours detrimental to the employee's health or safety.

Annual vacation and vacation pay

Vacation pay for piece-rate harvesters is **included** in the piece rates shown below.

Farm workers paid a salary or hourly rate are entitled to:

- Two weeks vacation after 12 consecutive months of employment and three weeks vacation after five consecutive years of employment.
- Vacation pay of four percent of total earnings after five days of employment and six percent of total yearly earnings after five years of employment. (See *Annual Vacation* factsheet.)

Vacation pay is to be paid:

- at least seven days before the start of the annual vacation, or on regular pay days if agreed to in writing by the employer and the employee; or
- if employment ends before one year, on the final pay cheque.

Statutory Holidays

Farm workers are excluded from statutory holiday entitlements.

Wage statements

On paydays, an employer must give each employee a written wage statement that includes the following information:

- The employer's name and address;
- The number of hours worked;
- The employee's wage rate, whether hourly, salary, flat rate, piece rate, commission or other incentive basis;
- Any money, allowance or other payment the employee is entitled to;
- The amount and purpose of each deduction;
- How the employee's earnings are calculated if the employee is paid other than by the hour or by salary; and
- The employee's gross and net wages, and any amounts withdrawn from the employee's time bank and how much remains.

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Minimum Wage for Piece Work Crops Effective May 1, 2011

The minimum wage for farm workers who are employed on a piece work basis and hand harvest the following crops is as follows: (rates include vacation pay of four percent of earnings):

Apples	\$ 17.06/ bin (27.1 cu. ft.)
Apricots	\$ 19.62/ ½ bin (13.7 cu. ft.)
Beans	\$ 0.234/ pound
Blueberries	\$ 0.396/ pound
Brussels Sprouts	\$ 0.163/ pound
Cherries	\$ 0.224/ pound
Grapes	\$ 18.13/ ½ bin (13.7 cu. ft.)
Mushrooms	\$ 0.235/ pound
Peaches	\$ 18.13/ ½ bin (12.6 cu. ft.)
Pears	\$ 19.21/ bin (27.1 cu. ft.)
Peas	\$ 0.292/ pound
Prune plums	\$ 19.21/ ½ bin (13.7 cu. ft.)
Raspberries	\$ 0.357/ pound
Strawberries	\$ 0.343/ pound

Daffodils*	\$ 0.137/ bunch (10 stems)
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*The rate for daffodils **does not** include vacation pay.

For more information, please contact the Employment Standards Branch:

A207 – 20159 88th Avenue E
Langley BC V1M 0A4
Facsimile: 604 513-4622

Or call the Agricultural Compliance Hotline:
604 513-4604

