



This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Employment Standards Act* and Regulation for purposes of interpretation and application of the law.

July 2016

# Farm Labour Contractors

A farm labour contractor provides labour to producers in connection with the planting, cultivating or harvesting of agricultural products. Although the workers may work on a variety of farms owned by different producers, they are the employees of the farm labour contractor.

Farm labour contractors must be licensed under the Employment Standards Act, with the exception of those who operate solely in silviculture or in spraying or pruning trees. Producers are not required to be licensed as farm labour contractors if they only hire people to pick crops on their own land.

## Licensing Requirements

Applicants for a farm labour contractor licence must pass a written test on the Act and Regulation and post security for each employee, in the form of a bond equal to 80 hours at minimum wage (Sept. 15, 2015: \$10.45 per hour; Sept. 15, 2016: \$10.85 per hour).

The bond amount will be reduced if a farm labour contractor has not contravened a “core requirement” of the Act as set out in the following sections:

- Section 13(1) - farm labour contractors must be licensed;
- Section 17(1) - pay days;
- Section 28 - payroll records;
- Section 58 - vacation pay; and
- Section 15 and 18(1) - minimum wage.

The bond amount will be reduced every year the farm labour contractor does not contravene any of the core requirements. The reduction amount is:

<i>Period of non-contravention</i>	<i>Multiplier</i>
1 year to less than 2 years	60
2 years to less than 3 years	40
3 years or more	20

If a farm labour contractor has had no previous contraventions of the Act, a licence may be issued for three years. Otherwise the licence must be renewed annually.

## Unlicensed contractors

A producer is required to use only licensed farm labour contractors. A producer who uses an unlicensed farm labour contractor is subject to penalties ranging from \$500 to \$10,000.

A producer who uses farm workers provided by an unlicensed farm labour contractor is considered to be the employer of the farm workers for the purposes of the Act and may be held liable for any unpaid wages.

## Duties of farm labour contractors:

A farm labour contractor must do all of the following:

- Carry the farm labour contractor's licence at all times while carrying on the licensed activities;
- Display a copy of the licence in all vehicles used for transporting employees;
- Show the licence beforehand to all persons with whom the farm labour contractor intends to deal as a farm labour contractor;



- Immediately notify the director of a change in the farm labour contractor's business or residential address;
- Provide the director with an up-to-date list of the registration numbers and licence numbers of all vehicles used for transporting employees;
- Ensure that each vehicle used for transporting employees has affixed to it an unexpired inspection certificate, and provide a copy to the director;
- Ensure that every person who transports employees has a valid driver's licence for the category of vehicle being driven; and
- Post a notice provided by the director, respecting vehicle and passenger safety, including driver, seating and seat belt requirements, in each vehicle being used to transport employees.

### Keeping Records

A farm labour contractor must keep a daily log at each work site which is available for inspection by the director. It must contain the following information:

- The name of the producer and work site location to which workers are supplied and the names of the workers who work at that work site on that day;
- The names of each worker and the dates worked;
- The site where each worker works on each day;
- The fruit, vegetable, berry or flower crop picked on each day by each worker; and
- The volume or weight picked each day by each worker.

All records must be kept in English. The employer must keep records for two years after the employment terminates.

### Travel Pay

Where a farm labour contractor transports a farm worker to a job site and then does not provide any work, the farm labour contractor must pay the worker the **greater** of:

- The minimum hourly wage for 2 hours work; or
- The time spent travelling from the departure point and back to that place, or to an alternative place that is no further away and is acceptable to the employee.

This requirement does not apply if work is not available due to unsuitable weather conditions or other causes completely beyond the farm labour contractor's control.

### Posting wage rates and paying wages

A farm labour contractor must prominently display, at all work sites and in all vehicles used for transporting employees, the wages being paid to farm workers.

A farm labour contractor must deposit wages directly to an employee's bank account.

### No charge for hiring

A farm labour contractor must not charge a person for hiring or obtaining work for that person.

### Vehicle Safety

All vehicles used to transport farm workers must be maintained in compliance with the requirements of the Motor Vehicle Act and Division 39 – Road Safety of the Motor Vehicle Act Regulations.

If a vehicle is removed from service while it is being used by a farm labour contractor to transport farm workers, and the province provides alternative transportation, the farm labour contractor must pay an administrative fee of \$500 to the director.

### Suspension or cancellation of licence

A farm labour contractor's licence may be suspended or cancelled if the farm labour contractor:

- Makes a false or misleading statement in the licence application;
- Breaches a condition of the licence;
- Contravenes the Act or the Regulation;
- Fails to comply with the provisions of the Motor Vehicle Act;
- Is ordered to remove a vehicle from the highway for repairs while it is being used to transport farm workers; or
- Is ordered to remove a vehicle from the highway

- Fails to comply with the Workers Compensation Act or the Occupational Health and Safety Regulation.

### **Agriculture compliance team**

The compliance team has the authority under the Act to enter farms where work is being done. Visits are unannounced in order to observe normal business operations. Team members will speak to the farm labour contractor and producer if they are present, interview employees and review records.

Producers and farm labour contractors who refuse to allow entry to compliance team members are subject to penalties ranging from \$500 to \$10,000.

All references to the “director” in this factsheet refer to the Director of Employment Standards.

Compliance team members carry out the director’s duties, powers and functions as delegated under the Act.

For more information, please refer to the “Agriculture” link on our website or contact the agriculture hotline at (604) 513-4604

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