

Workplace legislation for farms

Alberta's *Enhanced Protection for Farm and Ranch Workers Act* passed in 2015 brings the protection and compensation of waged, non-family farm and ranch workers in line with similar protections in other sectors and other Canadian provinces.

Government consulted with the agricultural community on how best to apply workplace standards to the agricultural sector while recognizing its unique characteristics and continuing our commitment to protect the family farm way of life.

Six farm and ranch technical working groups were formed to do this work and provided recommendations to government. They included representatives from the agricultural community, labour groups and technical experts.

The *Fair and Family-friendly Workplaces Act* passed on June 5. It included changes to the *Employment Standards Code* and *Labour Relations Code* that will apply to farms and ranches. These changes considered input from the farm and ranch technical working groups, which reviewed employment standards and labour relations, as well as the public.

Most changes that affect farms and ranches will come into effect on Jan. 1, 2018, with the exception of the availability of Public Emergency Tribunals, which took effect on June 7, 2017 and changes to youth employment standards which will be proclaimed after additional engagement with stakeholders including the agricultural community.

This information sheet answers some of the frequently asked questions by members of the agricultural community regarding the new legislation.

Frequently Asked Questions

What has changed now that the bill has been passed?

The changes will make sure Albertans have similar rights and protections enjoyed by other Canadians. Alberta has some of the oldest labour laws in Canada. The *Employment Standards Code* and *Labour Relations Code* had not significantly updated in almost 30 years, leaving our province behind the rest of the country.

The *Fair and Family-friendly Workplaces Act* gives Alberta the modern, balanced workplace laws that enable businesses, including farm and ranch operations, to thrive and prosper while ensuring basic fairness for workers.

Will these new rules apply to all farms and ranches?

The *Employment Standards Code* and *Labour Relations Code* will apply only to farms and ranches with waged, non-family employees.

Workers excluded from the Codes are:

- Farm owners
- Family members of farm owners
- Non-employee relatives, friends and neighbours helping out
- Children doing chores or participating in activities such as 4-H or helping neighbours and friends
- Participating in recreational activities such as hunting on farmland

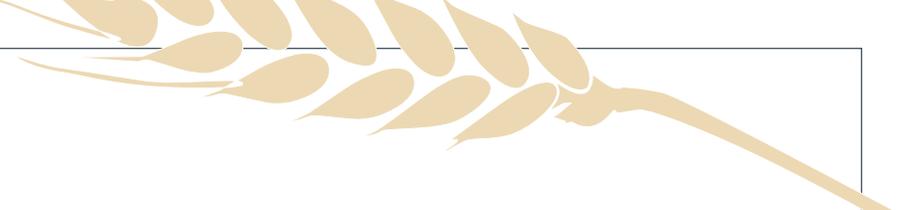
The definition of family member is:

Family member, in relation to a shareholder, sole proprietor or partner, means

- The spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or
- Whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder's, sole proprietor's or partner's spouse or adult interdependent partner, and includes any other person prescribed by the regulations to be a family member.

Do these new rules apply to Occupational Health and Safety?

No, the *Fair and Family-friendly Workplaces Act* only includes rules regarding employment standards and labour relations. The technical working groups reviewing occupation health and safety have submitted their reports to government, which are currently being reviewed. Government is currently consulting with the agricultural sector to provide practical guidelines for farms and ranches. Government will continue to communicate and consult with Albertans as we move forward in this process.



Employment Standards

What are employment standards?

Employment standards legislation sets minimum standards for conditions of employment. They include hours of work, overtime, holidays, vacation, minimum wage and youth employment.

How will these new rules apply to farms and ranches?

On Jan. 1, 2018, Alberta's *Employment Standards Code* will have special rules for waged, non-family workers in the agriculture sector:

- **Hours of work and overtime** – farms and ranches are not subject to the current standards on hours of work and overtime due to the extended working hours required during periods of harvest and seeding.
 - **General holiday pay** – will be based on 4.2 per cent of the previous four weeks' wages.
 - **Rest periods** – employees are entitled to four days of rest for every 28 days of work. Selection of days of rest will be at the employer's discretion if the employer and employee can't agree.
- » reservist leave (as needed)
 - » compassionate care leave (27 weeks)
 - » bereavement leave (three days)
 - » domestic violence leave (10 days)
 - » citizenship ceremony leave (half day)
 - » critical illness of a child leave (36 weeks)
 - » long-term illness and injury leave (16 weeks)
 - » personal and family responsibility leave (five days)
 - » death or disappearance of a child leave (52 week/104 weeks)

Employment standards that **will** apply to waged, non-family workers include:

- **Minimum wage** (\$13.60/hour effective Oct. 1, 2017; \$15/hour Oct. 1, 2018)
 - **Unpaid, job-protected leaves** after 90 days of work:
 - » maternity leave (16 weeks)
 - » parental leave (37 weeks)
- Standards on payment of earnings, employment records*
 - Standards on individual and group termination notice and termination pay*
 - Standards on administration and enforcement (e.g. permitting process, complaints, appeals)*
 - Vacations and vacation pay (two weeks' vacation after one year, three weeks after five years, or either four per cent (up to fifth year of employment) or six per cent vacation pay (after five years' employment)

What are the rules around employing youth?

The following rules will apply only to waged, non-family employees.

*NOTE – No changes are being made immediately. Changes will come into effect only after Alberta Labour consults on the list of light work jobs and a definition for hazardous work. The light work jobs list and the hazardous work definition are expected in the fall of 2017.

- Children aged 12 and under
 - prohibited from work, except for artistic endeavors approved by permit from Employment Standards.
- Youth aged 13 to 15
 - allowed to do light work only and no hazardous work. Alberta Labour will be consulting with employers, including the agricultural sector, to update the list of allowable light work jobs and to create a definition of hazardous work. Jobs not on the light work list will require a permit.
- Youth aged 16 to 17
 - allowed to do hazardous work with a permit, proper training and supervision.

How will these new rules apply to greenhouses, nurseries, mushroom and sod farms?

These operations are not considered farms under the *Employment Standards Code*, so regular rules under the Code apply to them. Government has committed to consult with the industry as to whether special rules are required.

Labour Relations

What is the *Labour Relations Code*?

Alberta's *Labour Relations Code* sets out the standards for relationships between employers and employees in unionized workplaces. This includes joining a union, collective bargaining, rights of employers and employees, disputes, prohibited practices and various mechanisms in place to assist parties and settle disputes. The majority of the Code will apply beginning Jan. 1, 2018.

Why is the *Labour Relations Code* being applied to farms and ranches?

Workplaces have evolved since the *Labour Relations Code* was last updated in 1988. Since that time, the Supreme Court of Canada has ruled that all workers must have the ability to organize, bargain collectively and take legal job action. Alberta's legislation previously did not comply with this direction, and has been modified to ensure it allows Albertans their constitutional rights, while also retaining fairness and balance. It's government's responsibility to ensure our laws are kept up to date.

How will these new rules apply to farms and ranches?

Waged, non-family employees – In order to comply with the Supreme Court of Canada ruling, waged, non-family employees will have the right to unionize and set up bargaining units with their employers. Each bargaining unit must be comprised of employees working for one employer only.

Bargaining/dispute resolution – Eligible employees who form bargaining units within existing union organizations, or who form their own unions, will be able to bargain with their employers. Government offers a number of services to aid organizations with this process, including mediators and arbitrators to assist employers and unions in resolving disputes. Strikes and lockouts will be allowed.

It is important to remember that under these rules waged, non-family employees do not have to form a union. Historically, and across the rest of Canada, rates of unionization on farms are low. These changes are only meant to ensure that as directed by the Supreme Court all waged, non-family employees, are given access to the same Charter rights that the rest of Canada's work force enjoys.

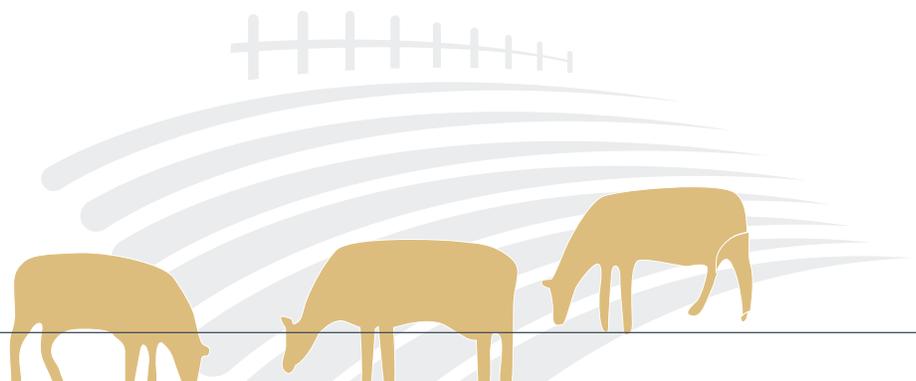
Do other provinces allow unions to be formed on farms and ranches?

Yes, only Ontario excludes agricultural workers. Agricultural workers in Ontario are covered by the *Agricultural Employees Protection Act* for labour.

How has the ability to have unions on farms and ranches affected farming in those other provinces?

There have been no recorded strikes or lockouts in the agricultural sector in other provinces.

The rate of unionization in the agricultural sector in Canada is low, at 2.6 per cent in 2016, according to the latest Statistics Canada numbers. The rate of unionization for the same year for all industries in Canada was 28.4 per cent.



A strike could damage farming operations. Do farmers and ranchers have any recourse if a strike happens?

Government understands that strikes or lockouts during critical times can become an emergency situation for the care of livestock and crops. In order to protect crops and livestock, government built in protection for farmers through Public Emergency Tribunals. Government can appoint Public Emergency Tribunals to end strikes in a timely manner that could otherwise cause damage to crops and livestock at critical times of the year, and for those operations where continuity of work is required to maintain care.

NOTE - This came into effect June 7, 2017. Public Emergency Tribunals have been used in the past to protect vulnerable Albertans, such as seniors living in continuing care, when strikes or lockouts have had the potential to put them at risk.

What are the new rules for joining a union?

If between 40 per cent and 65 per cent of employees sign cards in favour of a union, a Labour Relations Board-conducted vote will be required. If over 65 per cent sign cards, no board-conducted vote will be required. In all cases, the Board will retain the ability to conduct a vote if there are any doubts to the authenticity of the support, or if the Board feels a vote is necessary.

What are the new rules for revoking unionization?

To revoke a union's certification, a minimum of 40 per cent support of employees will be required in order to hold a secret ballot. If a majority of members support decertification in the secret ballot, the union's certification will be revoked.

What is first contract arbitration?

First contract arbitration sets out rules for bargaining between newly certified bargaining units and their employers who haven't been able to establish their first collective agreement. Unresolved disputes would be sent to a neutral third party who will determine the terms of the agreement.

What are the new rules for first contract arbitration?

Employers and unions will have access to first contract arbitration to help settle difficult negotiations for a first contract. This means that if a settlement can't be reached between an employer and a newly-certified bargaining unit within 90 days, either party can request binding arbitration. Both sides will present their bargaining positions to an independent, third-party arbitrator, who will also examine similar agreements, recent trends and economic data to determine a final settlement.

Further information

Employment Standards Code – www.qp.alberta.ca

Labour Relations Code – www.qp.alberta.ca

Alberta Labour website – www.work.alberta.ca

Workplace legislation changes website - www.alberta.ca/workplace-legislation-changes.aspx

Farm and Ranch workplace legislation website – www.farmandranch.alberta.ca

Employment Standards Contact Centre

780-427-3731 (Edmonton)

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