

Ministry of Labour, Training and Skills Development

COVID19 and the Role of Workplace Parties on Farms with Temporary Foreign Agricultural Workers

MLTSD Speakers

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Note

This resource does not replace the Occupational Health and Safety Act (OHSA) and its regulations, and should not be used as or considered legal advice. Health and safety inspectors apply the law based on the facts in the workplace. This resource does not replace the Occupational Health and Safety Act.

It is the responsibility of workplace parties to ensure compliance with the legislation. This document does not constitute legal advice.

Ministry of Labour, Training and Skills Development (MLTSD)

The ministry's occupational health and safety mandate is to set, communicate and enforce the [Occupational Health and Safety Act](#) and its regulations.

The Occupational Health and Safety Act (OHSA) applies to farming operations that have workers as defined under the Act. This includes temporary foreign workers.

Occupational Health and Safety System Partners

MLTSD works with system partners to develop and implement health and safety awareness and training programs to reduce and prevent fatalities, illness and injuries in workplaces.



Objectives

- ❖ Look back at lessons learned from last 3 months of on farm activity during the COVID19 pandemic.
- ❖ Highlighting the importance of reporting on the part of all workplace parties.
 - Internal Responsibilities System (IRS)
- ❖ To provide further education, support and compliance assistance to employers and workers regarding reporting requirements and the IRS.

MLTSD Health and Safety Activities

Since the onset of the COVID19 outbreak, to provide education, advice, support and enforcement regarding the health and safety of agricultural workers in Ontario, the ministry has been working closely with the Ministry of Health, Public Health Ontario, local Public Health Units (PHU), Health and Safety partners and associations, farming stakeholders, Employment and Social Development Canada (ESDC), various ministries and others.

In an effort to reduce the burden of overlapping inspections, MLTSD has been sharing information on temporary foreign agriculture worker inspections with ESDC's temporary foreign worker (TFW) program and various Public Health Units.

Exploration on how to improve this information sharing continues.

TFAW Initiative

In an effort to provide education, support and compliance assistance to employers in the agricultural sector, the ministry is currently conducting proactive occupational health and safety visits to farms, greenhouses and other locations where agricultural workers, including delivery persons and cleaners working on farming operations.



OHSA and applicable regulations

During this initiative, MLTSD Inspectors continue to enforce the OHSA and its regulations, including but not limited to the following:

- [Occupational Health and Safety Act, \(OHSA\)](#)
- [Farming Operations Reg. 414/05](#)
- [Occupational Health and Safety Awareness and Training, Reg. 297/13](#)
- [Emergency Orders made under the Emergency Management and Civil Protection Act \(EMCPA\)](#)

All measures taken to prevent the spread of COVID-19 should also be done in compliance with public health directives and guidance issued by Ontario's Chief Medical Officer of Health and the [Ministry of Health](#).

TFAW Initiative Focus

MLTSD is currently using the existing general duties section 25(2)(h) of the OHSA to require employers to take every precaution reasonable in the circumstances for the protection of a worker from COVID19 in the workplace.

This includes a focus on:

- ✓ Screening to prevent workers who may have COVID-19 from coming to work
- ✓ Physical distancing (a 2m separation) between workers
- ✓ Proper onsite hygiene
- ✓ Engineering controls
- ✓ Other precautions including the use of personal protective equipment (PPE)

Note: *The ministry also employs a team of specialists that may accompany an inspector to provide additional expertise. These professionals include: engineers, hygienists, doctors, ergonomists, and radiation experts. They may also bring or make referral to the local Public Health Unit as deemed appropriate.*

MLTSD Health and Safety Activities on Farms

As of **June 17, 2020** across the province, MLTSD:

- ❑ received **60** complaints associated with a farming operation
- ❑ conducted **202** inspections (123 proactive and 79 reactive).

There have been no work refusals related to COVID19 in the farming/agriculture sector.

Where non-compliance is observed, inspectors issue orders.

63 Orders have been issued. **12** Orders were COVID19 related.

The themes of the COVID related orders have been on lack of :

- information and instruction being provided to workers
- screening
- physical distancing without other controls in place
- cleaning and disinfecting of high touch surfaces and common areas

MLTSD has also received **13** Occupational Illness reports.

MLTSD Windsor District Office

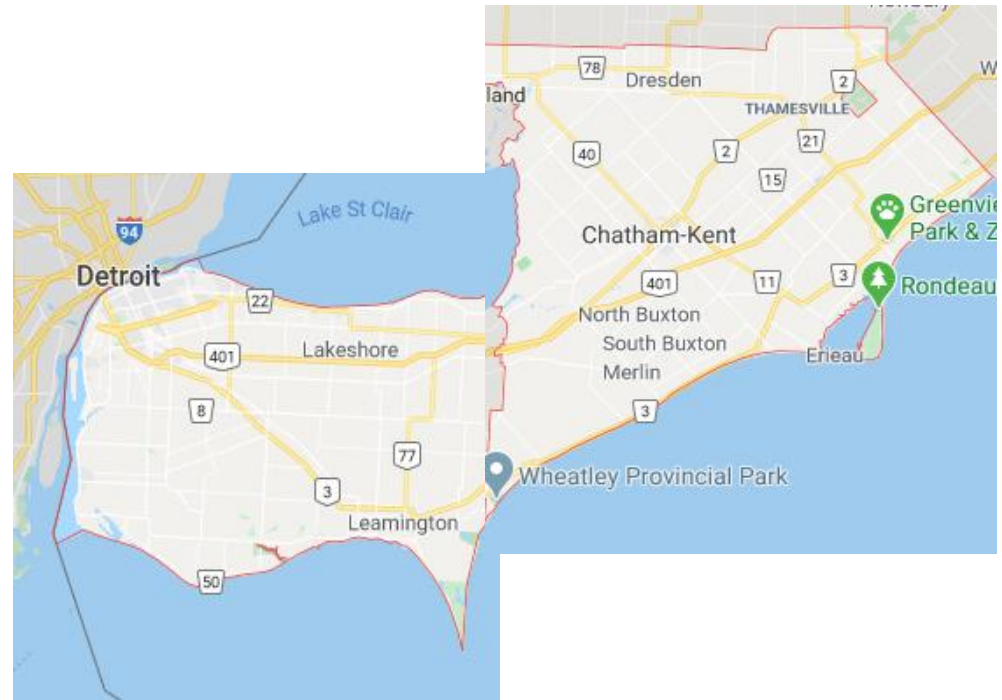
Vince La Tona

MLTSD

Occupational Health and
Safety Manager

MLTSD's Windsor District Office

- In 2020, Ontario anticipated just over 20,000 temporary foreign workers to fill positions in the farming and agricultural sector.
- Nearly half of these workers come to the Windsor-Essex and Chatham-Kent areas.
- Over 200 farms applied for TFAWs in the Windsor-Essex and Chatham-Kent areas.



These areas fall under the responsibility of MLTSD's Windsor District Office.

Windsor area farming activity

As part of the TFAW initiative, as of **June 17, 2020**, Windsor District Office completed:

- ❑ **60** Field Visits to over **50** Farms
- ❑ **13** field visits were reactive as a result of formal complaints
- ❑ Ongoing investigations include two recent fatalities suspected to be COVID19 related.

The Windsor Office maintains weekly contact with the Windsor-Essex County Public Health Unit to help prioritize proactive visits to farms with suspected outbreaks.

Short-term Contract Workers

- ❖ Based on data collected, an overwhelming majority of farming operations that have experienced outbreaks were using short-term contract workers hired through temporary help agencies.
- ❖ In an effort to address some of the unique challenges experienced in Southern Ontario, inspectors in the Windsor District Office have begun conducting visits to short term employers who provide temporary workers to the farming community.
- ❖ Inspectors are asking specific questions regarding working arrangements to ensure adequate safe working procedures and COVID19 related measures are in place for all workers, including those brought in to assist for short duration work.
- ❖ Isolation procedures, screening measures, maintaining physical distancing, bunkhouse accommodations, personal protective equipment are some of the topics thoroughly discussed during each visit.

Infection Prevention and Control

Denise Madsen

MLTSD

Infection Control Consultant
Northern & Western Regions

Infection Prevention and Control

Protect Your Best Resource: Prevent Occupational Health Infections

- Workers are the most important resource.
- A healthy and effective workforce benefits everyone.

The main purpose of the OHSA is to protect worker health and safety. This includes protection from infectious diseases.

Infection Control Consultants

MLTSD has 4 Infection Control Consultants (ICCs) across the province.

Role of ICCs

- To provide subject matter expertise and guidance to internal and external stakeholders on worker safety related to infection prevention and control for all sectors of Ontario workplaces.
- An ICC may accompany an inspector during a field visit

Infection Prevention and Control Measures

Risk Assessment

Evaluation of the workplace to identify hazards related to the different occupations and tasks performed.
Spread of infectious agents

Risk Control Measures

Engineering Controls - *Ventilation, Physical Barriers*

Administrative Controls & Work Practices - *P&Ps that support engineering controls*

Hand hygiene

Cleaning/Disinfecting

Guidelines for ill staff

PPE - *Gloves, masks, facial protection, apparel covering*

Education and Training

- Training and information on safe practices for the control of infections that are relevant to their work.
- Hazard awareness.
- All workers subject to biological agents and infectious disease transmission.

Evaluation

- Review of the practices and procedures to verify effectiveness.
- Improvements made where identified.

Internal Responsibility System (IRS)

Ron Landry

MLTSD

Industrial Health and Safety,
Provincial Coordinator

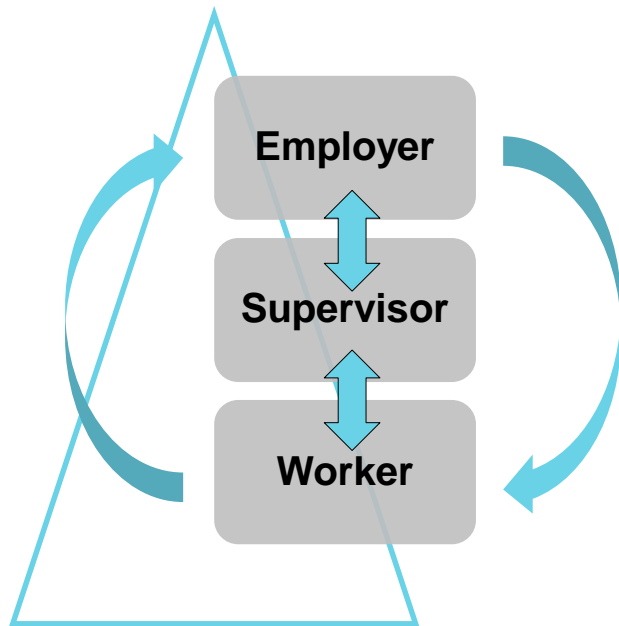
Internal Responsibility System (IRS)

The OHS Act makes it clear that employers have the greatest responsibilities with respect to health and safety in the workplace.

However, all parties have a responsibility for promoting health and safety in the workplace and to help the workplace be in compliance with the OHS Act.

The respective roles and responsibilities for all workplace parties are detailed in the OHS Act. This is the basis for the Internal Responsibility System (IRS).

IRS



The **Internal Responsibility System** means that everyone in the workplace has a role to play in keeping workplaces safe and healthy. Workers who see a health and safety problem in the workplace, have a duty to report the situation to the employer or a supervisor. Employers and supervisors are required to address the issue and ensure that workers on a farming operation are aware of any hazard.

Employer responsibilities

Employers have obligations under the Occupational Health and Safety Act (OHSA) and its regulations to protect workers from hazards in the workplace, including infectious diseases.

Key Employer Duties

- Take **every reasonable precaution** in the circumstances for the protection of a worker
- Provide, maintain, and ensure proper use of equipment**, materials, and protective devices
- Ensure **required measures and procedures** are carried out
- Provide **information, instruction and supervision** to workers
- Acquaint workers** and supervisors with workplace **hazards**

Develop your COVID-19 workplace safety plan

This MLTSD guide is for employers. Whether you are currently operating or planning for your workers to return to work, the guide will help you develop a plan to work safely. It will help prepare you to put controls into place to make the workplace safer for everyone.

You can use the COVID-19 safety plan template to create your plan.

<https://www.ontario.ca/page/develop-your-covid-19-workplace-safety-plan>

As quickly as possible upon arrival, workers should be instructed on the farm safety plan in a language they understand. Ex. Orientation training.

Check the [resources to prevent COVID-19 in the workplace](#) for sector-specific information and examples of controls that apply to your workplace specifically.

What to include in the occupational illness notice

Generally, the written notice should include:

- the name, address and type of business of the employer
- a description of the occupational illness and what may have caused it
- the period when the worker was affected
- the name and address of the worker affected
- name and address of the physician or other medical practitioner, if any, who was or is attending to the person for the illness
- the steps taken to prevent further illness

OHSA: Penalties for Non-Compliance

In the event that compliance with the OHSA or an MOL inspector order has not been met, MOL can charge and prosecute a corporation or individual

Individual

If guilty of an offence, liable for a fine of up to \$100,000, up to 12 months imprisonment, or both

Corporation

If guilty of an offence, liable for a fine of up to \$1,500,000

Note: Inspectors' decisions can be appealed to the Ontario Labour Relations Board (OLRB)

Worker Rights

- ❑ **Right to know** about any hazards to which they may be exposed
 - Employers are legally required to provide information, instruction and supervision to all workers and supervisors about known health and safety hazards in the workplace.
- ❑ **Right to refuse** unsafe work
 - Employers are not allowed to fire, discipline or penalize a worker for following workplace health and safety laws or refusing unsafe work.
- ❑ **Right to participate** in identifying and resolving health and safety concerns, including issues related to COVID19, for example, through membership on a joint health and safety committee (JHSC) or Health and Safety Representative (HSR).

Worker Responsibilities

- ❑ Workers should follow the safe work procedures and the requirements of the employer's health and safety policy.
- ❑ Workers should be aware of and follow public health directives and guidance issued by Ontario's Chief Medical Officer of Health and the [Ministry of Health](#).
- ❑ If a worker becomes ill due to COVID19 or experiences any symptoms, the worker should report it to a supervisor immediately so that others can be tested and further controls can be put in place to prevent spread.
- ❑ If a worker sees anything that looks unsafe, they should tell a supervisor or employer right away. The worker may also speak to a member of the JHSC or a Health and Safety Representative (HSR).

*** Don't wait until someone gets hurt or sick!**

JHSCs and HSRs



A joint health and safety committee (JHSC) is required when there are **at least 20 regularly employed workers** on the following farming operations: 1.Mushroom 3.Dairy 5.Cattle
2.Greenhouse 4.Hog 6.Poultry



Farming operations that **regularly employ more than 5 workers**, but are not one of the six specified commodity groups, are required to have a Health and Safety Representative (HSR).

Key functions & powers of JHSC and HSR under OHSA	JHSC	HSR
Inspect the workplace at least once per month	✓	✓
Identify workplace hazards and make recommendations to employer	✓	✓
Obtain information from employer regarding identification of hazards	✓	✓
Inspect workplace/investigate following critical injuries, fatalities, or work refusals	✓	✓
Opportunity to accompany MOL inspector during inspection of the workplace	✓	✓
Committee meets at least once every three months and keeps minutes	✓	✗
Certified JHSC member may initiate bilateral or unilateral work stoppage, if they believe that “dangerous circumstances” exist	✓	✗

A period that exceeds three months is generally considered “regularly employed”.

Reprisals under Section 50 of the OHSA

Employers are not allowed to reprimand (punish) a worker for obeying the law or exercising their rights.

Employers cannot:

- ❖ dismiss (or threaten to dismiss) a worker
- ❖ discipline or suspend a worker (or threaten to do so)
- ❖ impose (or threaten to impose) any penalty upon a worker
- intimidate or coerce a worker.

* If a worker feels like they may have been reprimanded against, they can call the Contact Centre at 1-877-202-0008 or email: webohs@ontario.ca

We are here to help...

Occupational Health and Safety Contact Centre

Call any time to report critical injuries, fatalities or work refusals.
Call 8:30 a.m. – 5:00 p.m., Monday – Friday, for general inquiries.

Toll-free: 1-877-202-0008

- ❑ **Press 1** to report an accident or work refusal
- ❑ **Press 2** to report a complaint (*including COVID19 concerns*)
- ❑ **Press 3** if you have questions

Once you have reached a telephone agent, you can ask for service in other languages.

You can also e-mail questions to webohs@ontario.ca. Responses will be made within 5 business days.

In an emergency, always call 911

MLTSD Resources

Employers and workers can refer to the Ministry's [Guide to the Occupational Health and Safety Act for Farming Operations](#) to understand their health and safety rights and responsibilities.

For COVID19 specific agriculture resources, please visit the ministry's [agriculture sector guidance notes](#) and Workplace Safety and Prevention Services' guidance for [agricultural workers](#) and [agricultural supervisors](#).

Training workbooks and accompanying guides for download:

- [Worker Health and Safety Awareness in 4 Steps](#)
- [Worker Awareness Workbook](#)
- [Employer Guide to Worker Health and Safety Awareness in 4 Steps](#)
- [Supervisor Health and Safety Awareness in 5 Steps](#)

Online Resources

Employers and workers can refer to the Ministry's [Guide to the Occupational Health and Safety Act for Farming Operations](#) to understand their health and safety rights and responsibilities.

Ministry of Health produced the following guidance documents:

[Guidance for Temporary Foreign Workers](#)
[Guidance for Group Homes and Co-Living Settings](#)

Please check the [Ministry of Health \(MOH\) COVID-19](#) website regularly for updates, FAQs, and other information related to COVID19.



Questions?