

# DOMESTICS' CROSS-CULTURAL NEWS

INTERCEDE for the Rights of Domestic Workers, Caregivers, and Newcomers

Toll Free 1-877-483-4554

December 2002



## WHAT TO KNOW ABOUT CANADA'S LIVE-IN CAREGIVER PROGRAM

LCP or Live-in Caregiver Program admits caregivers to Canada on a temporary work permit. To qualify for admission to this program, you must meet its requirements and abide by its rules. Information about LCP requirements for admission can be found at this internet address:

[www.cic.gc.ca](http://www.cic.gc.ca) click on *Work in Canada* and then click on the *Live in Caregiver Program*

### LCP REQUIREMENTS:

1) the equivalent of a Canadian secondary school diploma (in the Philippines two years of university); 2) six months of full-time training in a classroom setting or twelve months of full-time paid employment in a field related to the live-in caregiving job you are applying for. Out of the 12 months of employment, six months must be continuous employment with one employer. You must obtain this training or employment within three years of the day you submit an application to the LCP. 3) ability to speak, read and understand either English or French at a level sufficient to communicate independently; 4) A written employment contract with the future employer. You may obtain a model contract from [info@intercedetoronto.org](mailto:info@intercedetoronto.org).

Before you can apply to work in Canada under the Live-in Caregiver Program, your future employer must have obtained approval to hire you from Human Resources Development Canada (HRDC). Once notified of this approval, the Canadian Embassy in your area will contact you to start processing your work permit application under the LCP. It takes from six months to one year of your application before you get approval of a work permit.

If you meet the above four main requirements of the LCP, you really do not have to go through an employment

agency and you could very well apply and process your documents on your own. Watch out against recruitment agency scams that victimize prospective applicants. If you have to use an employment agency, choose only a reputable, tried and true one. A proper agency should charge a prospective employer, not you.

Once you do qualify and enter Canada through the LCP, you can avoid problems and complications, such as the dreaded loss of legal status, by finding out and knowing all you can about what are the **LCP's Conditions:**

1. The only work you are allowed to do is live-in caregiving work, that is, you are supposed to do caregiving work and live in your employer's household as a condition of your legal status in the country. This means that you have every right to refuse your own employer's demand to perform any other type of work, such as being a waitress in his restaurant or a receptionist in his clinic.
2. Your work permit must be valid at all times. A work permit is issued for one year only, so you must know the expiry date and apply for renewal one month before that date. When applying for a renewal of work permit, remember to accompany it with a renewed contract if you are continuing employment with the same employer.
3. You are allowed to work for only one employer at a time, the one whose name appears on your work permit. If you change employers, you must apply for a new work permit which will bear the name of your new employer.
4. You are prohibited from working with a new employer until after this employer makes an official request to hire you with HRDC and receives a Confirmation of Offer of Employment, after which you can apply for a new work permit. This application must be accompanied with your contract with the new employer. Remember, only when you receive a valid new work permit can you legally work again.
5. You can apply for permanent resident status only after completing 24 months of live-in caregiving work under the LCP but you must complete this 24-month requirement within three years of your

All Domestic/Caregiver workers,  
Newcomers and those on Temporary Work  
Permit are welcome to attend

**INTERCEDE MEETING**  
**Every First Sunday of the Month**

(if holiday, meeting is on the second Sunday)

**First Meeting In the Year 2003**  
**January 5, 2003**

Apply or renew your membership - \$10.

INTERCEDE invites everyone to our  
**Christmas Meeting and Party**  
**Guest of Honour: Ms. Jean Augustine**  
*Secretary of State (Status of Women) (Multiculturalism)*

Sunday, December 1, 2002, 3-7 p.m.  
At Cecil Community Centre, 58 Cecil St.  
(one block south of College cor. Spadina)

Pot Luck and Gift Exchange (\$10++)

arrival in Canada under the Program.

6. Once you have applied for permanent residence, you can also apply, on a separate application form, for an Open Employment Authorization (or also called an open work permit). With an open work permit you can work at any job you choose, outside of live-in caregiving.

Violation of any of the LCP conditions above could lead to loss of valid status and even deportation. But you should know that as a temporary migrant worker you do have, and must assert

#### YOUR RIGHTS:

- You have every right to leave an employer for any reason and at any time if you choose to do so. Nothing in the LCP prevents you from working in a safe, healthy and stress-free workplace!
- Under the Live-in Caregiver Program, your work is primarily as a caregiver for children, or an elderly person or a person with special needs, with some cooking and cleaning tasks.
- Your travel documents, specially your passport, are your responsibility - neither your employer nor anyone else has a right to confiscate or keep them without legal basis or authority.
- You never agreed to be a slave nor to give up your fundamental freedoms. No employer has a right to invade your privacy, confine you in their premises and restrict your freedom of movement. Nothing in the LCP allows the violation of your fundamental rights.
- You have a right to be respected and to be free from violence. Outside of your workhours you are free to go out, call people, and live a normal adult life.

**LAWS** do protect you as a worker, despite the LCP's stringent conditions. Labour laws or employment standards may vary from province to province, but today, most of them apply to live-in domestic and caregiver workers. Employment Standards Acts (ESA) in the provinces of Ontario, Quebec, British Columbia etc. protect you in most of its provisions including minimum wage and hours of work and overtime. Because they may differ, you must find out what your rights are under the Employment Standards Act in your province. In Ontario, these basic rights include:

- standard minimum wage (\$6.85)
- legal normal & maximum hours of work each day (8 & 13) and each week (44 & 48)
- overtime pay (1&1/2 times your hourly rate beyond 44 hours a week)
- paid public holidays (8 annually)
- termination notice or pay (one week after 3 months of work, 2 weeks after one year of work)
- vacation (2 weeks after one year of employment)
- room and board deductions (maximum \$85.25)
- no other deductions can be taken out of your salary except for tax, employment insurance and Canada pension.
- Statement of Earnings from employer with each pay
- Record of Employment from employer when you terminate

If any of the ESA is violated by your employer, you have a right to file a claim in the province's Ministry of Labour six months after such violation. There is free legal assistance you may access in order to do so. Do not let offending employers

get away with violating your rights, it will only embolden them to continue to abuse others.

It is also important for you to know that you are covered, and your employer is obliged to pay, for provincial health insurance, workers' compensation, a share of your unemployment insurance and Canada pension. Your employer is obliged to remit to Revenue Canada all deductions from your pay, including federal and provincial taxes.

Remember that Canada is a signatory to international covenants and agreements including the Human Rights Convention, the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Platform for Action, the Convention for the Elimination of Racism and Discrimination, and others. These are legal instruments which are meant to protect you and for which the Canadian government must be held accountable.



### KEY PROVISIONS UNDER ONTARIO'S EMPLOYMENT STANDARDS ACT (5<sup>TH</sup> of a series, continued from Aug.-Nov. issues)

On September 4, 2001, a new Employment Standards Act (ESA) took effect in Ontario. This is the fifth installment of a series, begun in August, in which key provisions of the ESA are explained for the information and protection of domestic and caregiver workers, whether live-in or live-out, and whether they are still or no longer under Immigration's Live-in Caregiver Program.

#### Room and Board

If you are a live-in domestic worker or live-in caregiver and your employer provides you with room and board, the following are the amounts that you are legally entitled to be deducted for under the Employment Standards Act.

Private Room:	\$31.70 a week.
Board:	\$2.55 a meal and not more than \$53.55.

Both room and board:	\$85.25 a week if the room is private and \$53.55 a week if the room is not private.
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Room and board wages do not have to be paid to the employer, unless the live-in caregiver and domestic worker have their own private room and are given proper meals. A private room consists of a room that is somewhat furnished, fit for someone to live in, comes with clean bedsheets and towels, close accessibility to a proper toilet and washing facilities, and a proper door with a lock and a key.

#### How to File A Claim for ESA Violations

If your employer breaks the law, you have the right to file a complaint with the Ministry of Labour. If the Ministry of Labour finds your complaint valid and believes your rights have been violated, your employer will be instructed to pay the money that you are owed. Your employer could also be ordered to take you back as an employee (it is your choice if you want to go back), or compensate you if you were let go or treated badly because you

exercised your rights.

Depending on what type of violation your employer has done, your time period to file a claim could be in between six months to one year.

If you want to file a claim, we recommend that you come to INTERCEDE to have one of the counsellors to assist you. These are the following steps that should be taken when filing a claim:

1. Figure out which part of the Employment Standards Act your employer has violated.
2. Write a letter to your boss, asking he/she to pay you the money you are owed. This letter is called a "demand letter". At INTERCEDE we have a form to fill out, that is considered a substitute for the demand letter. You can use this form instead of writing a demand letter.
3. Make sure to make a copy of your letter/form for yourself, and then mail the form or letter by registered mail to your boss.
4. Take a copy of your demand letter/form to the Ministry of Labour, Employment Practices Branch (call 416-326-7160/1-800-531-5551 or <http://www.gov.on.ca/lab/main.htm>)
5. At the Ministry of Labour's office you will be asked to fill out an official claim form which will start the Ministry's claim process.

**Important note:** Your claim will be stronger and have a better chance of being won if you have a documented calendar of the violations used against you. This calendar would consist of the tasks you performed, the times you worked, the OT worked, how much you are being paid, etc.

Expect the following after you file your claim:

- Once the Ministry of Labour receives your claim, an Employment Standards Officer will investigate it. The investigation usually takes a long time.
- A few weeks after filing the claim you should receive a letter from the Ministry of Labour. This letter is a confirmation that your claim was received, and it will inform you about the procedure that will be taken.
- The Employment Standards Officer will arrange a meeting with you and your employer. This meeting is called "A Fact Finding Mission"
- You can attend the meeting on your own, but it is better if you bring someone with you. You can ask an INTERCEDE counsellor to accompany you. If you have trouble with English, bring a friend, family member, or find an interpreter to interpret for you.
- Remember to bring all of your documents with you.
- If the Employment Standards Officer agrees with your claim, "an order" will be issued against your employer.

If you disagree with the outcome of your complaint, you have the right to ask for the decision to be reviewed within thirty days.



**A GIFT IDEA!**

**INTERCEDE Caregivers' Safety Check List and Calendar**

*is now on sale for \$10.00 each*

What a nice gift for friends this coming Christmas and all year round! Please call Genie at 416-483-4554 ext. 21

**APPLICATION FOR RE-ENTRY VISA**

Here are some pointers for live-in caregivers who are going home for Christmas holidays.

If your entry visa to Canada has expired, you must obtain a **re-entry visa** to be able to come back because Immigration officials at Canada Ports of Entry will not allow you to enter Canada even if you have your work permit.

**There are two ways to obtain a re-entry visa:**

A. You can apply in person at Canadian consulate in Buffalo, New York. Request for an application form for a re-entry visa at 1 HSBC Center, Suite 3000, Buffalo, New York 14203-2884 or call 1-716-858-9500. Fill out the application and bring it with a letter from your employer which states that you were allowed to take your vacation outside Canada and the date you are expected to resume your work as live in caregiver. In addition, bring your current work permit and other documents required as stated in the checklist when you go to Buffalo to apply for a re-entry visa. To go to Buffalo you must also have a U.S. visa.

OR

B. You can request for a re-entry visa at the Canadian Embassy in your country. Bring your current work permit, three current passport size pictures, and a letter from your employer stating that you were allowed to spend your vacation outside Canada for a specific period of time and that you are expected to resume your work as live-in caregiver on a specific date.

The processing fee for a re-entry visa must be paid in Manager's Cheque or Bank Draft payable to Canadian Consulate General in the amount of Canadian \$2,400.

Call INTERCEDE office and ask for any of our counsellors for further details.

For those travelling to the Philippines, if you have a connecting flight from Vancouver to Manila via **Philippine Airlines**, make sure that your hand carry bag will not **exceed seven kilos**. Otherwise, you will have to pay Cdn \$75.00 in excess weight and check in your hand carry bag at the check in counter of Philippine Airlines.



**COCO'S CORNER:**

**Q:** *My three years under the Live-In Caregiver Program will be completed in December but I will only complete the required 24 months live-in work in February 2003. My current Employment Authorization will expire on December 2002.*

*My present employer expressed their need of my service as caregiver to their elderly mother. I am filing an application for extension of work permit hoping to complete the required 24-month requirement for Permanent Residence. What are my chances and please give suggestions to support my application.*

**A:** I understand your anxiety. However, it is worth enclosing a strong letter from your employers stating their interest to continue your employment or attaching these Validated Offer of Employment from HRDC (Human Resource Development of Canada.). In addition, send an outline of the circumstances why you had difficulty in completing the required 24 months in time i.e. delay in approving offer of employment by HRDC, your two months employment ended with an employer's death, and your latest employer relocated to another country. These are contributing factors beyond your control. Call INTERCEDE for further assistance.



**Merry Christmas and  
A Happy Prosperous New Year to All!**

**FREE JOB SEARCH WORKSHOP**

**FOR NEWCOMERS**

**When:** Tuesdays and Thursdays  
 January 14, 16, 21 & 23  
 February 11, 13, 18 & 20  
**Time :** 2:00 p.m. to 6:00 p.m.

**Where:** INTERCEDE,  
 234 Eglinton Ave. East, Suite 205  
 (Eglinton & Mt. Pleasant)  
 Toronto, On. M4P 1K5

**FOR CAREGIVERS**

**WHEN:** Sunday  
 January 12, 19, 26 & Feb. 2  
 February 9, 16, 23, & Mar. 2  
**TIME :** 11:00 a.m. to 5:00 p.m.

**WHERE:** INTERCEDE  
 234 Eglinton Ave. East, Suite 205  
 (Eglinton & Mt. Pleasant)  
 Toronto, On., M4P 1K5

Please call (416)483-4554 ext. 21 to sign up.  
 Seating is limited.

Funded by Citizenship and Immigration Canada &  
 sponsored by COSTI & OCASI

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 \* Municipality of Toronto CSGP, Access & Equity and "Breaking the Cycle of  
 \*\*\*\*\*

**INTERCEDE**

**Address:** 234 Eglinton Avenue East, Suite 205  
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**Regular Hours:** Mon-Fri 9 am - 4 p.m.  
**Telephone:** (416) 483-4554  
**Fax:** (416) 483-9781  
**Toll-Free:** 1-877-483-4554  
**E-mail:** info@intercedetoronto.org

**INTERCEDE STAFF:**  
 Fely Villasin - Coordinator  
 Des Balce - JSW Facilitator  
 Soledad Diaz - Settlement Counsellor  
 Anita Fortuno - Settlement Counsellor  
 Salma Saadi - Settlement Counsellor  
 Genie Policarpio - Intake & Administrative Assistant

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