

# Employment standards protections for domestic workers in New Brunswick

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In New Brunswick, domestic workers are excluded from employment standards protections due to the way that the *Employment Standards Act* defines an “employer”<sup>1</sup> This means that workers who do care work, such as child care and housekeeping, in the private residences of their employers are not guaranteed minimum wage, breaks, vacation time/pay, and other basic rights. Domestic workers also have no recourse if they experience certain employment-related issues with their employers, such as not being paid.

In Canada, domestic work is almost entirely carried out by women,<sup>2</sup> many of whom are racialized, immigrant, migrant, and/or undocumented.<sup>3</sup> Because the work they do is secluded in their employers’ homes, domestic workers face high risks of exploitation.<sup>4</sup> These risks are heightened for domestic workers who live on-site with their employers, and for those who have precarious immigration status.<sup>5</sup>

**Excluding domestic workers from workers’ protection violates s. 15 of the *Canadian Charter of Rights and Freedoms*: it disproportionately affects women, denying women a benefit and perpetuating their historical disadvantage.**

Including domestic workers in employment standards protections must be followed by addressing worker misclassification. Even where domestic workers aren’t explicitly excluded from employment protections, they can still be denied employment standards protections if they are misclassified as independent contractors rather than employees. This is especially a problem with the rise of platform-based gig work.<sup>6</sup>

Domestic work is valuable work. Domestic workers help households meet their basic needs and provide essential care for people in New Brunswick. Demand for this work will only grow with New Brunswick’s aging population.

## LEAF’s recommendations

LEAF calls on the Government of New Brunswick to make the following amendments to the *Employment Standards Act*:

1. Remove the exclusion of employers who employ people “in or about” their homes from the definition of “employer”, and:
  - a. Provide a definition of “hours of work” that includes periods during which employees must be at their employer’s disposal, such as wait time and sleep time;<sup>7</sup>
  - b. Adopt minimum standards for employer-provided accommodations.
2. Amend the definition of “employee” to provide criteria that can distinguish between independent contractors and employees. Base the criteria on the International Labour Organization’s Recommendation No. 198,<sup>8</sup> as well as on advocacy by New Brunswick’s labour unions.<sup>9</sup>

## Fast facts



New Brunswick is the only jurisdiction that completely excludes domestic workers from employment standards legislation.



The exclusion of domestic work is fundamentally an issue of gender equality, with women accounting for 90% of domestic workers in New Brunswick.<sup>10</sup>



Within the care work sector, domestic work tends to have the lowest wages and most precarious working conditions.<sup>11</sup>