

Farm Practices Act

CHAPTER 3

OF THE

ACTS OF 2000

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An Act to Protect Farmers
Engaged in Normal Farm Practices
from Being Sued in Nuisance or Negligence

Short title

1 This Act may be cited as the Farm Practices Act. 2000, c. 3, s. 1 .

Purpose of Act

2 The purpose of this Act is to

(a) provide a mechanism for the establishment of normal farm practices; and

(b) protect farmers who are following normal farm practices from civil action in nuisance or negligence.
2000, c. 3, s. 2 .

Interpretation

3 In this Act,

(a) "agricultural operation" means an activity that is carried on for the purpose of the production of agricultural products or services for gain or reward and includes, but is not limited to,

(i) the raising of livestock, including poultry, fur-bearing animals, honey bees, game birds and game animals,
(ii) the production of agricultural crops, including mushrooms, turf, maple syrup, greenhouse crops, orchards and nursery stock,

(iii) the production of eggs, cream and milk,

(iv) the operation of agricultural machinery and equipment, including irrigation pumps, bird scarers, exhaust fans and hay dryers,

(v) the process at a farm necessary to prepare a farm product for distribution, including cleaning, grading, storage and packaging,

(vi) the clearing, draining, leveling, irrigating or cultivating of land,

(vii) the application of fertilizers, soil conditioners, pest control products or other agricultural inputs,

(viii) the storage, disposal or use of organic by-products for farm purposes, and

(ix) any other activity prescribed by the Governor in Council;

(b) "Board" means the Farm Practices Board established pursuant to this Act;

(c) "code of practice" means a code of practice adopted pursuant to this Act;

(d) "farm" means the land, buildings, structures, equipment, machinery and livestock used in the production of agricultural products or services for gain or reward;

(e) "farmer" means an individual, a farm corporation, a co-operative corporation, an unincorporated association or a partnership that carries on an agricultural operation;

(f) "Minister" means the Minister of Agriculture and Marketing;

(g) "normal farm practice" means a practice that is conducted as part of an agricultural operation

(i) in accordance with an approved code of practice,

(ii) in accordance with a directive, guideline or policy statement set by the Minister with respect to an agricultural operation or normal farm practice, or

(iii) in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances, including the use of innovative technology used with advanced management practices;

(h) "order" means an order of the Board. 2000, c. 3, s. 3 .

Supervision and management of Act

4 The Minister has the general supervision and management of this Act and the regulations. 2000, c. 3, s. 4 .

Farm Practices Board

5 (1) There is hereby established a board to be known as the Farm Practices Board consisting of seven members appointed by the Minister.

(2) In appointing members to the Board, the Minister shall appoint

(a) two members from persons recommended by the Nova Scotia Federation of Agriculture;

(b) one member from persons recommended by the Union of Nova Scotia Municipalities; and

(c) four members-at-large.

(3) The Minister shall appoint one member of the Board to be the Chair of the Board.

(4) Members of the Board shall be appointed for such term as determined by the Governor in Council.

(5) A majority of the members of the Board constitutes a quorum.

(6) Members of the Board shall be paid such remuneration as determined by the Governor in Council.

(7) Members of the Board shall be reimbursed for reasonable travelling and other expenses incurred by them in accordance with the work of the Board as determined by the Governor in Council.

(8) A vacancy on the Board does not impair the ability of the Board to act. 2000, c. 3, s. 5 .

Rules of procedure

6 The Board may make rules of procedure for the conduct and management of its affairs. 2000, c. 3, s. 6 .

Study and report

7 The Minister may request the Board to study and report to the Minister on any matter related to farm practices. 2000, c. 3, s. 7 .

Code of practice

8 (1) A person may make a request to the Minister that a code of practice be developed.

(2) Upon receipt of a request pursuant to subsection (1), the Minister may refer the request to the Board for an opinion from the Board as to the desirability of adopting a code of practice.

(3) Where the Board recommends that a code of practice be adopted, the Minister shall, following such public consultation as the Minister deems appropriate, develop a code of practice. 2000, c. 3, s. 8 .

Function of Board

9 (1) Any person may apply, in writing, to the Board for a determination as to whether or not an odour, noise, dust, vibration, light, smoke or other disturbance results from a normal farm practice.

(2) The Board may refuse to consider an application or to make a determination if, in the opinion of the Board, the

(a) complaint in question has already been before the Board and a determination has been made by the Board; or

(b) applicant does not have a sufficient personal interest in the subject-matter of the application.

(3) The Board, on receipt of an application, shall determine if the farm practice being carried on by the farmer is consistent with the code of practice or, in the absence of a code of practice, with a directive, guideline or policy statement or with proper and accepted customs and standards of similar agricultural operations.

(4) Where the Board determines that a farm practice is not a normal farm practice, the Board shall issue an order to modify or cease the farm practice. 2000, c. 3, s. 9 .

Prohibition of certain civil proceedings

10 (1) Subject to subsection (2), no person shall

(a) commence a civil action in nuisance, negligence or otherwise, for any odour, noise, dust, vibration, light, smoke or other disturbance resulting from an agricultural operation; or

(b) apply for an injunction or other order of a court preventing or restricting the carrying on of an agricultural operation because it causes any odour, noise, dust, vibration, light, smoke or other disturbance.

(2) Subsection (1) does not apply

(a) to an agricultural operation that is found by the Board not to comply with normal farm practices; or

(b) where a farmer fails to comply with an order of the Board. 2000, c. 3, s. 10 .

Appeal to Supreme Court

11 Any party to an application made to the Board pursuant to this Act may appeal a decision of the Board on any question of law to the Supreme Court of Nova Scotia within thirty days of the making of the decision. 2000, c. 3, s. 11 .

Restriction on application of by-laws

12 No municipal by-law respecting a nuisance, activity or thing that may be or may cause a nuisance including odour, noise, dust, vibration, light, smoke or other disturbance applies to restrict a normal farm practice carried on as part of an agricultural operation. 2000, c. 3, s. 12 .

Effect on planning strategies and land-use by-laws

13 Nothing in this Act affects the ability of a municipality to apply a municipal planning strategy or land-use by-law to farm land. 2000, c. 3, s. 13 .

Offence and penalties

14 (1) A person who violates an order issued by the Board pursuant to this Act is guilty of an offence.

(2) A person who is guilty of an offence under this Act is liable, on summary conviction, to a fine not exceeding two thousand dollars or, in default of payment, to imprisonment to a term not exceeding six months, or to both a fine and imprisonment. 2000, c. 3, s. 14.

Regulations

15 (1) The Governor in Council may make regulations

(a) determining what activities are an agricultural operation for the purpose of this Act;

(b) prescribing procedures for issuing a directive, guideline or policy statement with respect to an agricultural operation or normal farm practice;

(c) respecting a code of practice;

(d) prescribing the terms, eligibility for re-appointment, remuneration and duties of the Board;

(e) prescribing procedures for making an application to the Board;

(f) prescribing fees payable and when refunds are permitted for applications to the Board;

(g) prescribing the procedures for conducting investigations and for issuing orders;

(h) prescribing the procedures for conducting a hearing on an application;

(i) defining any word or expression used but not defined in this Act;

(j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act. 2000, c. 3, s. 15 .

Repeal

16 Chapter 5 of the Revised Statutes, 1989, the Agricultural Operations Protection Act, is repealed. 2000, c. 3, s. 16 .

Proclamation

17 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2000, c. 3, s. 17 .

Proclaimed - November 30, 2000

In force - March 1, 2001

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