



Français

Farming and Food Production Protection Act, 1998

S.O. 1998, CHAPTER 1

Consolidation Period: From November 14, 2017 to the e-Laws currency date.

Last amendment: 2017, c. 20, Sched. 1.

Legislative History: [+]

It is desirable to conserve, protect and encourage the development and improvement of agricultural lands for the production of food, fibre and other agricultural or horticultural products.

Agricultural activities may include intensive operations that may cause discomfort and inconveniences to those on adjacent lands.

Because of the pressures exerted on the agricultural community, it is increasingly difficult for agricultural owners and operators to effectively produce food, fibre and other agricultural or horticultural products.

It is in the provincial interest that in agricultural areas, agricultural uses and normal farm practices be promoted and protected in a way that balances the needs of the agricultural community with provincial health, safety and environmental concerns.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1 (1) In this Act,

“agricultural machinery and equipment” includes irrigation pumps, crop conditioning and drying equipment, refrigeration units and crop protection equipment; (“machines et matériel agricoles”)

“agricultural operation” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward; (“exploitation agricole”)

“Board” means the Normal Farm Practices Protection Board; (“Commission”)

“disturbance” means odour, dust, flies, light, smoke, noise and vibration; (“perturbation”)

“farmer” means the owner or operator of an agricultural operation; (“agriculteur”)

“Minister” means the Minister of Agriculture, Food and Rural Affairs; (“ministre”)

“normal farm practice” means a practice that,

(a) is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances, or

(b) makes use of innovative technology in a manner consistent with proper advanced farm management practices; (“pratique agricole normale”)

“person” includes an unincorporated association; (“personne”)

“processing” includes sawing, cleaning, treating, grading and packaging to the extent that these activities relate to products primarily from and are conducted as a part of an agricultural operation. (“traitement”) 1998, c. 1, s. 1 (1); 2002, c. 17, Sched. F, Table.

Interpretation

(2) For the purpose of the definition of “agricultural operation”, “agricultural, aquacultural, horticultural or silvicultural operation” shall be construed to include,

- (a) draining, irrigating or cultivating land;
- (b) growing, producing or raising,
 - (i) livestock, including poultry and ratites,
 - (ii) fur-bearing animals,
 - (iii) bees,
 - (iv) cultured fish,
 - (v) deer and elk,
 - (vi) game animals and birds, or
 - (vii) any additional animals, birds or fish prescribed by the Minister;
- (c) the production of agricultural crops, greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, tree and turf grass, and any additional agricultural crops prescribed by the Minister;
- (d) the production of eggs, cream and milk;
- (e) the operation of agricultural machinery and equipment;
- (f) the application of fertilizers, soil conditioners and pesticides;
- (g) ground and aerial spraying;
- (h) the storage, handling or use of organic wastes for farm purposes;
- (i) the processing by a farmer of the products produced primarily from the farmer's agricultural operation;
- (j) activities that are a necessary but ancillary part of an agricultural operation such as the movement of transport vehicles for the purposes of the agricultural operation; and
- (k) any other agricultural activity prescribed by the Minister, conducted on, in or over agricultural land. 1998, c. 1, s. 1 (2).

Section Amendments with date in force (d/m/y) [+]**When farmer not liable**

2 (1) A farmer is not liable in nuisance to any person for a disturbance resulting from an agricultural operation carried on as a normal farm practice. 1998, c. 1, s. 2 (1).

Not a normal farm practice

(1.1) A practice that is inconsistent with a regulation made under the *Nutrient Management Act, 2002* is not a normal farm practice. 2002, c. 4, s. 63 (1).

Reference to Board

(1.2) A judge who is required to make a determination as to whether a farm practice is a normal farm practice may refer the matter to the Board for a hearing and require the Board to report to the judge. 2002, c. 4, s. 63 (1).

Injunctions

(2) No court shall issue an injunction or other order that prohibits a farmer from carrying on the agricultural operation because it causes or creates a disturbance. 1998, c. 1, s. 2 (2).

Exceptions to subss. (1) and (2)

(3) Subsections (1) and (2) do not apply to preclude an injunction or order, in respect of a nuisance or disturbance, against a farmer who has a charge pending related to that nuisance or disturbance under the,

- (a) *Environmental Protection Act*;
- (b) *Pesticides Act*;

(c) *Health Protection and Promotion Act*; or

(d) *Ontario Water Resources Act*. 1998, c. 1, s. 2 (3).

Same

(4) Subsections (1) and (2) do not apply to preclude an injunction or order, in respect of a nuisance or disturbance, against a farmer who is in contravention of an order of the Board made under clause 5 (4) (b) related to that nuisance or disturbance. 1998, c. 1, s. 2 (4).

Where Act superseded

(5) This Act is subject to the *Environmental Protection Act*, the *Pesticides Act* and the *Ontario Water Resources Act*. 1998, c. 1, s. 2 (5).

Section Amendments with date in force (d/m/y) [+]

Board continued

3 (1) The Farm Practices Protection Board, consisting of not less than five members appointed by the Minister, is continued under the name Normal Farm Practices Protection Board in English and Commission de protection des pratiques agricoles normales in French. 1998, c. 1, s. 3 (1).

Chair, vice-chairs

(2) The Minister may designate one of the members of the Board as chair and may designate one or more vice-chairs from among the remaining members. 2017, c. 20, Sched. 1, s. 1 (1).

Supervision, chair

(3) The chair of the Board is responsible for the general supervision and direction of the conduct of the affairs of the Board. 1998, c. 1, s. 3 (3).

Supervision, vice-chair

(4) If the chair is absent or unable to act, one of the vice-chairs may exercise the powers of the chair. 1998, c. 1, s. 3 (4); 2017, c. 20, Sched. 1, s. 1 (2).

(5), (6) REPEALED: 2006, c. 34, s. 32.

Remuneration

(7) Those members of the Board who are not public servants employed under Part III of the *Public Service of Ontario Act, 2006* shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines. 1998, c. 1, s. 3 (7); 2006, c. 35, Sched. C, s. 41.

Rules

(8) The Board may, subject to the *Statutory Powers Procedure Act*, make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it. 1998, c. 1, s. 3 (8).

Quorum

(9) The chair or a vice-chair and two other members constitute a quorum. 1998, c. 1, s. 3 (9); 2017, c. 20, Sched. 1, s. 1 (3).

Section Amendments with date in force (d/m/y) [+]

Powers, duties of Board

4 (1) The Board may exercise such powers and shall perform such duties as are conferred or imposed upon it by this Act. 1998, c. 1, s. 4 (1).

Dispute resolution

(2) The Board has the power,

(a) to inquire into and resolve a dispute respecting an agricultural operation and to determine what constitutes a normal farm practice; and

(b) to make the necessary inquiries and orders to ensure compliance with its decisions. 1998, c. 1, s. 4 (2).

Providing information

(3) The Board shall provide the Minister with any information requested by the Minister about the policies, procedures and operations of the Board. 1998, c. 1, s. 4 (3).

Studies

(4) If so ordered by the Minister, the Board shall conduct the study of any matter related to farm practices and report its findings and recommendations to the Minister. 1998, c. 1, s. 4 (4).

Applications, re disturbances

5 (1) A person directly affected by a disturbance from an agricultural operation may apply to the Board, in a form acceptable to it, for a determination as to whether the disturbance results from a normal farm practice. 1998, c. 1, s. 5 (1).

Application

(2) Every application shall state,

- (a) the nature of the complaint;
- (b) the name and address of the applicant; and
- (c) the name of the person carrying on the agricultural operation and the location of the operation. 1998, c. 1, s. 5 (2).

Hearing

(3) Subject to section 8, the Board shall hold a hearing in respect of each application. 1998, c. 1, s. 5 (3).

Action by Board

(4) After a hearing, the Board shall,

- (a) dismiss the application if the Board is of the opinion that the disturbance results from a normal farm practice;
- (b) order the farmer to cease the practice causing the disturbance if it is not a normal farm practice; or
- (c) order the farmer to modify the practice in the manner set out in the order so as to be consistent with normal farm practice. 1998, c. 1, s. 5 (4).

Normal farm practice preserved

6 (1) No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation. 1998, c. 1, s. 6 (1).

Dispute resolution

(2) A person described in subsection (3) or a municipality may apply to the Board, in a form acceptable to it, for a determination as to whether a practice is a normal farm practice for purposes of the non-application of a municipal by-law. 1998, c. 1, s. 6 (2).

Applications

(3) An application may be made by,

- (a) farmers who are directly affected by a municipal by-law that may have the effect of restricting a normal farm practice in connection with an agricultural operation; and
- (b) persons who want to engage in a normal farm practice as part of an agricultural operation on land in the municipality and have demonstrable plans for it. 1998, c. 1, s. 6 (3).

Application

(4) Every application must,

- (a) contain a copy of the by-law in question;
- (b) state the by-law number, the date it was passed, the name of the municipality that passed it and the address of the municipal offices;

(c) describe the practice to be reviewed; and

(d) contain the name and address of the farmer or, if the applicant is not a farmer or a municipality, of the applicant. 1998, c. 1, s. 6 (4).

Refusal by Board

(5) The Board may refuse to hear an application if it is of the opinion that the applicant does not have a direct, personal interest in the outcome of the application or whose main reason for the application is other than to be able to carry on a normal farm practice. 1998, c. 1, s. 6 (5).

Hearing

(6) Subject to subsection (5) and section 8, upon receiving an application under subsection (2), the Board shall hold a hearing to determine whether the practice in question is a normal farm practice. 1998, c. 1, s. 6 (6).

Parties

(7) The municipality, the farmer, or if the applicant is a person described in clause (3) (b), that person are parties to the hearing. 1998, c. 1, s. 6 (7).

Same

(8) The Board may add any person who applies to be a party and who may be directly affected by its decision as a party to the hearing. 1998, c. 1, s. 6 (8).

Notice of hearing

(9) The following are entitled to notice of the hearing by the Board:

1. The parties.
2. Every owner of land that is,
 - i. within 120 metres of the area in which the farm practice is being exercised, and
 - ii. in the municipality that has passed the by-law. 1998, c. 1, s. 6 (9).

Same

(10) Notice of a hearing to the parties may be given by personal service or regular lettermail. 1998, c. 1, s. 6 (10).

Same

(11) Notice of a hearing to every one who is not a party may be given by personal service, regular lettermail or publication in a newspaper that is of sufficiently general circulation in the area surrounding the agricultural operation to give the public reasonable notice of the hearing. 1998, c. 1, s. 6 (11).

Same

(12) For the purposes of subsection (9), the owner of land shall be deemed to be the person named on the last revised assessment roll prepared under the *Assessment Act*. 2006, c. 33, Sched. Z.3, s. 11.

Municipality's obligation

(13) The municipality that passed the by-law shall provide the Board with the information necessary for the Board to determine the land owners for the purposes of subsection (9). 1998, c. 1, s. 6 (13).

Submissions

(14) A person who is not a party may make submissions relating to the determination of whether the practice in question is a normal farm practice and the parties to the hearing are entitled to respond to those submissions. 1998, c. 1, s. 6 (14).

Factors to consider

(15) In determining whether a practice is a normal farm practice, the Board shall consider the following factors:

1. The purpose of the by-law that has the effect of restricting the farm practice.

2. The effect of the farm practice on abutting lands and neighbours.
3. Whether the by-law reflects a provincial interest as established under any other piece of legislation or policy statement.
4. The specific circumstances pertaining to the site. 1998, c. 1, s. 6 (15).

Decision

(16) After the Board has completed the hearing, it shall provide a written decision stating whether the Board is of the opinion that,

- (a) the farm practice is a normal farm practice;
- (b) the farm practice is not a normal farm practice; or
- (c) the farm practice will be a normal farm practice if the farmer makes specific modifications in the practice within the time set out in the decision. 1998, c. 1, s. 6 (16).

Application

(17) This section applies to by-laws that came into force before this Act came into force. 1998, c. 1, s. 6 (17).

Section Amendments with date in force (d/m/y) [+]

Limitation on power of Board

6.1 Despite any provision in section 4, 5 or 6 that gives the Board the power to determine whether a farm practice is a normal farm practice, the Board shall determine that a farm practice is a normal farm practice for the purposes of this Act if the practice is consistent with a regulation made under the *Nutrient Management Act, 2002*. 2002, c. 4, s. 63 (2).

Section Amendments with date in force (d/m/y) [+]

By-laws and vehicles

7 (1) A municipal by-law that has the effect of restricting the times during which a vehicle may travel does not apply to the vehicle if,

- (a) the vehicle is going to or from an agricultural operation;
- (b) the purpose for which the vehicle is going to or from an agricultural operation and the times during which the vehicle is arriving at or leaving the operation are part of normal farm practice; and
- (c) there is no road that could serve as a reasonable alternative that the vehicle may use to travel to or from the agricultural operation. 1998, c. 1, s. 7 (1).

Dispute resolution

(2) A municipality or any person with a direct interest in the result of the application may apply to the Board, in a form acceptable to the Board, for a determination as to whether the conditions set out in subsection (1) are met in any particular case. 1998, c. 1, s. 7 (2).

Application

(3) Every application must,

- (a) contain a copy of the by-law in question;
- (b) state the by-law number, the date it was passed, the name of the municipality that passed it and the address of the municipal offices;
- (c) describe the facts to be reviewed; and
- (d) contain the name and address of the applicant if the applicant is not the municipality. 1998, c. 1, s. 7 (3).

Hearing

(4) Subject to section 8, upon receiving an application under subsection (2), the Board shall hold a hearing to determine whether the conditions in subsection (1) have been satisfied. 1998, c. 1, s. 7 (4).

Parties

(5) The municipality that passed the by-law in question, the applicant, if the municipality is not the applicant, and any other persons that the Board adds as parties are parties to the hearing. 1998, c. 1, s. 7 (5).

Same

(6) No person shall be added as a party who does not want to be a party. 1998, c. 1, s. 7 (6).

Notice of hearing

(7) The following are entitled to notice of the hearing by the Board:

1. The parties.
2. Every resident within the municipality who is likely to be disturbed by a vehicle travelling in contravention of the by-law. 1998, c. 1, s. 7 (7).

Same

(8) Notice of a hearing to the parties may be given by personal service or regular lettermail. 1998, c. 1, s. 7 (8).

Same

(9) Notice of a hearing to every one who is not a party may be given by personal service, regular lettermail or publication in a newspaper that is of sufficiently general circulation in the area surrounding the agricultural operation to give the public reasonable notice of the hearing. 1998, c. 1, s. 7 (9).

Submissions

(10) A person who is not a party may make submissions and the parties to the hearing are entitled to respond to those submissions. 1998, c. 1, s. 7 (10).

Application

(11) This section applies to by-laws that came into force before this Act came into force. 1998, c. 1, s. 7 (11).

Refusal to hear

8 (1) The Board may refuse to hear an application under section 5, 6 or 7 or, after a hearing has commenced, refuse to continue the hearing or to make a decision if in its opinion,

- (a) the subject-matter of the application is trivial;
- (b) the application is frivolous or vexatious;
- (c) the application was not made in good faith; or
- (d) the applicant has not a sufficient personal interest in the subject-matter of the application. 1998, c. 1, s. 8 (1).

Appeal

(2) Any party to a hearing under this Act may appeal an order or a decision of the Board on any question of fact, law or jurisdiction to the Divisional Court within 30 days of the making of the order or decision. 1998, c. 1, s. 8 (2).

Technical help

(3) The Board may appoint one or more persons having technical or special knowledge of any matter before the Board to assist it in any capacity in respect of that matter. 1998, c. 1, s. 8 (3).

Guidelines, etc.

9 (1) The Minister may issue directives, guidelines or policy statements in relation to agricultural operations or normal farm practices and the Board's decisions under this Act must be consistent with these directives, guidelines or policy statements. 1998, c. 1, s. 9 (1).

Adoption by reference

(2) For the purposes of subsection (1), the Minister may adopt, in whole or in part, directives, guidelines or policy statements issued under other Acts or by another ministry. 1998, c. 1, s. 9 (2).

Other considerations

(3) Despite subsections (1) and (2), the Board is not precluded from considering any directives, guidelines and policy statements issued by the Government of Ontario that the Board considers relevant to any matter before it. 1998, c. 1, s. 9 (3).

Regulations

10 The Minister may make regulations,

- (a) prescribing, for the purpose of the definition of “agricultural operation”,
 - (i) additional animals, birds or fish,
 - (ii) additional agricultural crops,
 - (iii) other agricultural activity conducted on, in or over agricultural land, and
 - (iv) limits, expansions or clarifications of activities described within the definition;
- (b) providing for the use of forms;
- (c) prescribing fees payable in respect of an application made under this Act and authorizing refunds. 1998, c. 1, s. 10.

11 OMITTED (AMENDS OR REPEALS OTHER ACTS). 1998, c. 1, s. 11.

12 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 1998, c. 1, s. 12.

13 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1998, c. 1, s. 13.

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