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SNL2001 CHAPTER F-4.1

FARM PRACTICES PROTECTION ACT

Amended:

2005 c17 ss4-5; 2013 c16 s25

CHAPTER F-4.1

**AN ACT RESPECTING THE PROTECTION OF FARM PRACTICES IN
THE PROVINCE**

(Assented to December 13, 2001)

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *Farm Practices Protection Act* .

[2001 cF-4.1 s1](#)

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Definitions

2. In this Act

- (a) "acceptable farm practice" means a farm practice that is conducted in a prudent and proper manner that is consistent with
 - (i) accepted customs and standards followed by similar farm operations under similar circumstances,
 - (ii) the farm practices guidelines prescribed by the minister, and
 - (iii) a policy directive issued by the minister,and includes the use of innovative technology in a manner consistent with acceptable farm practices;
- (b) "board" means the Farm Industry Review Board established under section 3 of the *Natural Products Marketing Act* ;
- (c) "farm operation" means an agricultural activity conducted by a farmer for gain or reward or with the expectation of gain or reward and includes
 - (i) growing, producing, raising or keeping animals or plants or the primary products of those animals or plants,
 - (ii) composting,
 - (iii) clearing, draining, burning, irrigating or cultivating land,
 - (iv) using farm machinery, including vehicles on public roads, equipment, devices, materials and structures,
 - (v) applying fertilizers, manure, pesticides or biological control agents,
 - (vi) operating farm produce stands or agricultural tourist operations, including U-Pick farms or roadside stands, and
 - (vii) preparing farm products for distribution for wholesale or retail consumption including the cleaning, grading or packaging of those products;
- (d) "farm practices guidelines" means those guidelines of acceptable farm practices prescribed by the minister, and includes a policy directive of the minister;
- (e) "farmer" means a person who owns or operates a farm operation and includes a person acting on his or her behalf;
- (f) "minister" means the minister appointed under the *Executive Council Act* to administer this Act; and
- (g) "person" means a natural person or body of persons whether incorporated or not.

[2001 cF-4.1 s2; 2005 c17 s4](#)

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Nuisance action barred

3. (1) A person who carries on a farm operation according to acceptable farm practices is not liable in an action in nuisance to a person for an odour, noise, dust, vibration, light, smoke or other disturbance resulting from a farm operation and shall not be prevented by injunction or other order of a court from carrying on a farm operation because it causes or creates an odour, noise, vibration, dust, light, smoke or other disturbance that would otherwise constitute grounds for an action in nuisance.

(2) Subsection (1) does not exempt a person from compliance with an Act of the province or of Canada or a regulation made under an Act of the province or of Canada .

(3) Notwithstanding subsection (1) or (2), or another Act or regulation, a person does not contravene a municipal by-law with respect to nuisance if he or she conducts his or her farming operation according to acceptable farm practices.

[2001 cF-4.1 s3](#)

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Complaint

10. (1) A person who is aggrieved by an odour, noise, dust, vibration, light, smoke or other disturbance resulting from a farm operation may make an application in writing to the board for a determination as to whether the disturbance results from an acceptable farm practice.

(2) An application under subsection (1) shall

(a) contain

(i) a statement of the nature of the complaint,

(ii) the name and address of the applicant,

(iii) the name and address of the farmer, and

(iv) the location of the farm operation;

(b) be in a form acceptable to the board; and

(c) be accompanied by a fee set by the board and approved by the minister.

(3) The board shall, within 15 calendar days of receiving application, advise the applicant in writing of receipt of the application.

(4) The parties to an application are the applicant, the farmer and a person added as a party by the board.

(5) The board may require that an applicant give notice of the application to the farmer and another person specified by the board in a manner that the board may direct.

(6) The board may consider 2 or more applications together where

(a) the facts of the applications are determined by the board to be similar; or

(b) the complaint is made against the same farm operation and the same farmer.

[2001 cF-4.1 s10](#)

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Application for determination required

11. A person shall not, with respect to a farm practice, a farm operation or a farmer,

- (a) commence an action in nuisance for an odour, noise, dust, vibration, light, smoke or other disturbance resulting from a farm operation; or
- (b) apply for an injunction or other order of the court preventing or restricting the carrying on of the farm operation because it causes or creates an odour, noise, dust, vibration, light, smoke, or other disturbance that would otherwise constitute a nuisance,

unless the person has applied to the board under this Act for a determination as to whether the disturbance results from an acceptable farm practice and the farmer has not complied with an order of the board under section 15 with respect to that application.

[2001 cF-4.1 s11](#)

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Refusal of application

12. (1) The board may refuse to consider an application or make a decision if, in its opinion,

- (a) the subject matter of the application is trivial;
- (b) the application is frivolous, vexatious, or not in good faith;
- (c) the applicant does not have sufficient personal interest in the subject matter of the application; or
- (d) the substance of the application has already been heard and a decision made on it by the board.

(2) The board shall notify the parties of its refusal to consider an application or make a decision under subsection (1) and give written reasons for the refusal.

[2001 cF-4.1 s12](#)

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Dispute resolution

13. (1) Where an application is made to the board under subsection 10(1), the board may appoint a person, including a member of the board, to

- (a) inspect the farm operation that is the subject of the application;
- (b) inquire into and attempt to resolve the dispute which is the subject of the application; and
- (c) report to the board his or her findings, and whether a resolution agreeable to the applicant and farmer has been achieved.

(2) Where the board appoints a person under subsection (1), that person shall, where possible, assist the applicant and the farmer to come to a mutually agreeable resolution.

[2001 cF-4.1 s13](#)

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Hearing

14. Where, under section 13, the matter of an application has been investigated and the applicant and farmer have been unable to come to a mutually agreeable resolution, the board shall hold a hearing at a time and place determined by it to determine whether the disturbance complained of results from acceptable farm practices.

[2001 cF-4.1 s14](#)

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Disposition of complaint

15. (1) At the conclusion of a hearing, the board shall

- (a) dismiss the complaint if the board determines that the farm operation is being carried out according to acceptable farm practices;
- (b) order the farmer to cease the practice that is the subject of the complaint if the board determines it is not an acceptable farm practice; or
- (c) order the farmer to modify the farm operation in the manner set out in the order to make it consistent with acceptable farm practices.

(2) In making a determination under subsection (1), the board shall follow the applicable farm practices guidelines.

(3) The board may call those experts it considers necessary to determine if an operation is being conducted according to acceptable farm practices under subsection (1).

(4) The board shall give a copy of its decision or order, together with written reasons for the decision or order, to each of the parties.

(5) A decision of the board may be filed with the Trial Division, and, when filed, the decision or order is of the same force and effect as if it were a judgment of that court.

(6) The board may award reasonable costs to a party to the application.

(7) An applicant or a farmer may appeal a decision of the board to the Trial Division within 30 days of the date of the decision by filing a notice of appeal with the court.

(8) An appeal under subsection (7) does not stay the decision being appealed unless the Trial Division orders otherwise.

[2001 cF-4.1 s15; 2013 c16 s25](#)

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Designation of acceptable farm practice

16. (1) A person may apply to the board for the designation of a farm practice as an acceptable farm practice under this Act.

(2) Upon receipt of an application under subsection (1), the board shall require the applicant to publish notice of that application in the manner determined by the board.

(3) The board shall recommend to the minister whether the farm practice, or any part of that farm practice is an acceptable farm practice, and the minister may designate that farm practice as an acceptable farm practice.

[2001 cF-4.1 s16](#)

PART III GENERAL

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Guidelines and policy directives

17. (1) The minister may prescribe guidelines known as the farm practices guidelines and may issue policy directives for acceptable farm practices.

(2) The farm practices guidelines and policy directives prescribed by the minister under subsection (1) may vary between agricultural sectors or areas of the province.

(3) The guidelines and policy directives prescribed by the minister under this section are not subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act* .

[2001 cF-4.1 s17](#)

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Request by minister

18. The minister may request that the board study and report to the minister on a matter related to farm practices.

[2001 cF-4.1 s18](#)

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Commencement

19. This Act shall come into force on a day to be proclaimed by the Lieutenant Governor in Council. (In force - May 30/03)

[2001 cF-4.1 s19](#)

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