

1993 BILL 233

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First Session, 23rd Legislature, 42 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 233

FARM PRACTICES PROTECTION ACT

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MR. JACQUES

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 233*  
*Mr. Jacques*

## **BILL 233**

1993

### **FARM PRACTICES PROTECTION ACT**

*(Assented to , 1993)*

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Definitions**

**1** In this Act,

- (a) "agricultural operation" means an agricultural, aquacultural, horticultural or silvacultural operation that is carried on in the expectation of gain or reward, and includes,
- (i) the cultivation of land,
  - (ii) the raising of live stock, including poultry,
  - (iii) the raising of fur-bearing animals and game birds,
  - (iv) the production of agricultural crops, including mushrooms, greenhouse crops and nursery stock,
  - (v) the production of eggs and milk,
  - (vi) the operation of agricultural machinery and equipment, including irrigation pumps,
  - (vii) the process necessary to prepare a farm product for distribution from the farm gate,

- (viii) the application of fertilizers, conditioners and pesticides, including ground and aerial spraying, and,
- (ix) the storage, disposal or use of organic wastes for farm purposes;
- (b) "Board" means the Farm Practices Protection Board established under section 3;
- (c) "land use control law" means any Act and any regulation, plan or by-law made under the authority of an Act that restricts or prescribes the use to which land or premises may be put or the nature of business or activities that may be carried on on any land or premises;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "normal farm practice" means a practice that is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances and includes the use of innovative technology used with advanced management practices;
- (f) "person" includes an unincorporated association.

Protection from  
nuisance claims

2(1) A person who carries on an agricultural operation and when, in respect of that agricultural operation, is not in contravention of,

- (a) any land use or control law;
- (b) the *Environmental Protection and Enhancement Act*;
- (c) the *Agricultural Chemicals Act*;
- (d) the *Water Resources Act*,

is not liable in nuisance to any person for any odour, noise or dust resulting from the agricultural operation as a result of a normal farm practice and shall not be prevented by injunction or other order of a court from carrying on any normal farm practice because it causes or creates an odour, a noise or dust.

Where the subsection (1) does not apply	(2) Subsection (1) does not apply to an owner or operator of an agricultural operation that fails to obey an order of the Board made under clause 5(3)(b).
Farm Practices Protection Board	3 (1) The Farm Practices Protection Board is hereby established and shall consist of not less than five members appointed by the Minister.
Chairperson of Board	(2) The Minister may designate one of the members of the Board as chairperson and one or more of the remaining members as vice-chairperson.
Duties of chairperson	(3) The chairperson of the Board is responsible for the general supervision and direction over the conduct of the affairs of the Board and, in his or her absence or if he or she is unable to act, the vice-chairperson shall have all the powers of the chairperson.
Term	(4) The members of the board may be appointed to hold office for a term not exceeding three years and may be reappointed, but no member shall hold office for more than six years, whether the member's appointments are for consecutive terms or not.
Remuneration	(5) The members of the Board who are not public servants of Alberta shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines, provided funds are allocated to that purpose by the Legislature.
Procedures	(6) The Board may, make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board shall give written notice, in such form as the Board specifies, to the person that the Board specifies.
Quorum	(7) The chairperson or vice-chairperson and two other members constitute a quorum and are sufficient for the exercise of all of the jurisdiction and powers of the Board.
Duties and powers of the Board	4(1) The Board may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act including the power, <p style="margin-left: 40px;">(a) on the request of an aggrieved person, to inquire into and</p>

resolve a dispute respecting an agricultural operation including the determination as to what constitutes a normal farm practice; and

(b) to make such enquiries and orders as are necessary to ensure that there is compliance with its decisions.

Information to  
made available to  
Minister

(2) The Board shall provide the Minister with any information requested by the Minister as to the policies, procedures and operations of the Board.

Board to conduct  
studies

(3) The Minister may order the Board to study any matter related to farm practices and the Board shall conduct the study and report its findings and recommendations to the Minister.

Complaints  
re: farm practices

5(1) Where a person is aggrieved by any odour, noise or dust resulting from an agricultural operation, the person may apply in writing to the board for a determination as to whether the odour, noise or dust results from a normal farm practice.

Form of  
application

(2) The Board shall hold a hearing and shall,

(a) dismiss the complaint if the Board is of the opinion that the odour, noise or dust results from a normal farm practice; or

(b) order the owner or operator of the agricultural operation to cease the practice or to modify the practice in the manner set out in the order to be consistent with normal farm practice.

Refusal to hear  
application

(3) The Board may refuse to hear an application 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 or is not made in good faith; or

(c) the applicant has not a sufficient personal interest in the subject-matter of the application.

Appeal

(4) Any party to a hearing under subsection (3) may appeal an order of the Board on any question of fact or law or both to

the Divisional Court within thirty days of the making of the order.

Professional  
assistance

(5) The Board may appoint one or more persons having technical or special knowledge of any matter before it.

Injunction  
proceedings in  
obeyance

6(1) Where a farm practice is the subject of an application made under subsection 5(1), no injunction proceedings may be commenced or continued in respect of that farm practice until the Board has made an order or dismissed the application under subsection 5(3) or has refused to hear the application.

Exception

(2) Subsection (1) does not apply to any proceedings taken under the *Environmental Protection and Enhancement Act*, the *Agricultural Chemicals Act* or the *Water Resources Act*.

Regulations

7 The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing fees payable in respect of an application made under subsection 5(1) and authorizing refunds;
- (c) prescribing the composition of the Board.