

The Enhanced Protection for Farm and Ranch Workers Act One Year Later

By: Jennifer Koshan

Legislation Commented On: Bill 6, [*Enhanced Protection for Farm and Ranch Workers Act*](#), 29th Legislature, 1st Session (2015-2016)

It has been exactly one year since the government introduced Bill 6, [*the Enhanced Protection for Farm and Ranch Workers Act*](#), in the Alberta Legislature. The Bill made amendments removing the exclusion of farm and ranch workers from Alberta's labour and employment legislation, and eventually passed in December 2015 after heated debate (for an earlier post on Bill 6 see [here](#)). The Bill went through some [amendments](#) during legislative debates, notably exempting family members and unpaid farm and ranch workers from inclusion in the *Occupational Health and Safety Act*, [RSA 2000, c O-2](#) and *Workers' Compensation Act*, [RSA 2000, c W-15](#). The government also constituted broad-based working groups to make recommendations on implementing Bill 6, and the inclusion of farm and ranch workers in employment standards, labour relations and occupational health and safety legislation was suspended pending these consultations. In spite of these concessions, the Wildrose party – which vociferously argued against the Bill – reiterated its intent to “kill Bill 6” at its [convention](#) in Red Deer in late October.

In the midst of this ongoing debate, University of Alberta Press has released a new book, [Farm Workers in Western Canada: Injustices and Activism](#) (Shirley A. McDonald and Bob Barnetson, editors), which provides some much needed context for the issues surrounding the regulation of agricultural work and the rights of farm and ranch workers. One chapter in the book is based on a series of ABlawg posts written by several U Calgary law students and me, which argues that the exclusion of farm and ranch workers from labour and employment legislation violates the *Charter* (see the references to these posts in our e-book on farm and ranch workers [here](#)).

Given this constitutional imperative, the implementation of Bill 6 seems to be taking a long time. The working groups have not yet made their recommendations to the government, in spite of having been struck last spring. The most recent [update](#) from the government on the consultations, released last week, provides as follows:

Technical working groups on the Enhanced Protection for Farm and Ranch Workers Act continued to meet over the summer.

A lot of the conversation centered around where, when and how to best share information with farmers and ranchers on the changes to the legislation, and how to share existing resources to promote on-farm safety.

The working groups have highlighted the importance of communicating directly with those industry sectors that will be impacted by any changes.

There is also discussion in several groups about the development of an organization to coordinate agriculture safety education across the province.

The working groups will continue to examine these and many other important and challenging questions in upcoming months to inform their recommendations to government and provide greater clarity to the agriculture community.

Some groups are beginning to come to consensus on specific topics and will begin drafting their recommendations to government.

Employment Standards Code

- This group discussed employment standards considerations like overtime, hours of work, rest days and breaks, general holidays and holiday pay, minimum wage, and rules around youth employment and family members.
- They are also considering standards around payment of earnings, employment records, job protected leaves, and termination notice and pay, among other standards in the Code.
- They highlighted the importance of education and consideration for the impact on Alberta small businesses.

Labour Relations Code

- This group discussed many difficult and intricate questions like: if, how many and which types of farm workers could be included in a collective bargaining unit.
- These discussions led them to the importance of quality resources and training and communication for those affected by changes to the legislation, and highlighted the importance of Alberta Labour Relations Board meetings with agriculture sector stakeholders to ensure a common understanding of labour and agriculture in Alberta.

OHS: Review of existing requirements and exceptions (Two Groups)

- One OHS working group considered reviewing health specific parts of the Occupational Health (OHS) and Safety Code and whether or not they should apply to farms and ranches with or without modifications. They looked at emergency preparedness, first aid, ventilation systems and other parts of the code in detail.
- This group reinforced that communication, training and supports to the agriculture community will be critical for the successful adoption of OHS practices, so that all workers have a safe and healthy working environment and employers can profitably operate their businesses.
- The other OHS working group is considering parts of the OHS safety code and discussing, in-depth, which parts can be applied to farms and ranches without conditions, which may require conditions and which parts should not apply at all.

- They specifically discussed radiation, joint worksite health and safety committees, walkways, stairs, entrances and fixed and portable ladders, and practical modifications to legacy buildings and equipment.
- The two groups reviewing the OHS Code also met together to complete a review of code areas jointly assigned for discussion and consensus. Specifically, they discussed hazard assessment, worker competencies and manufacturer specifications. They are also building a working definition of farm and ranch operations for application of the Code.

OHS: Best practices for agriculture

- Among other things, this group talked about the importance of partnerships between government and agriculture associations to facilitate awareness of the North American Guidelines for Childrens’ Agricultural Tasks.
- The group also considered best practices to avoid death and injury due to roll-overs and developing a health and safety system for agricultural operations with employees. The group highlighted the importance of updating resources and creating new resources to reflect the changes to the OHS Code, and developing new resources to help employers fulfill their obligations.

OHS: Education, training and certification

- After receiving feedback from working group members and their respective stakeholder communities, this group is drafting some initial recommendations on the creation of an organization to coordinate agriculture safety education across the province.
- They identified criteria for evaluating the educational resources and tools they will examine in upcoming meetings, and agreed that all education resources should be suitable, usable, adaptable, practical and accessible to the targeted agriculture community stakeholders.

The technical working groups will develop recommendations on how employment standards, occupational health and safety, and labour relations requirements should be applied given the unique needs of employers and employees in the agriculture sector.

More information about the consultations is available on the website of the [Alberta Agriculture Farm and Ranch Safety Coalition \(AgCoalition\)](#), a coalition of producer groups formed in January 2016 in response to Bill 6, which appears to be well represented on the working groups.

In an [open letter](#) about Bill 6 last December, Premier Notley noted that “Since laws to protect farm and ranch employees were introduced [in British Columbia], the farm fatality rate was reduced by 68%, the farm injury rate was reduced by 52%, and the serious injury rate was reduced by 41%.” At the same time, “Family farms are thriving in those other provinces and they will continue to thrive here.” With these compelling figures in mind, it is to be hoped that the working groups will report to the government soon, and that the long awaited and constitutionally mandated inclusion of farm and ranch workers in employment standards, labour relations, and occupational health and safety laws becomes a reality.

This is not to say that concessions based on the interests of farm producers cannot be made. In some provinces, farms and ranches are exempted from employment legislation based on size (see e.g. New Brunswick’s *Employment Standards Act*, [SNB 1982, c E-7.2](#), section 5) and sector (see e.g. Manitoba’s *Employment Standards Regulation*, [Man Reg 6/2007](#), section 3), or are subject to alternate regimes for labour relations (see e.g. Ontario’s *Agricultural Employees Protection Act, 2002, SO 2002, c 16*). These tailored schemes may constitute reasonable limits on the rights of farm and ranch workers under section 1 of the *Charter* (see *Dunmore v. Ontario (Attorney General)*, [2001] 3 SCR 1016, [2001 SCC 94 \(CanLII\)](#)). However, it is not an option to “kill Bill 6” – to do so would be to return to the almost absolute exclusion of farm and ranch workers from labour and employment legislation, which would be contrary to their *Charter* rights and difficult to justify under section 1.

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