

6 Lingering Misconceptions About Bill 6

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INTRODUCTION

It's been nearly a year and a half since the now infamous "Bill 6: *The Enhanced Protection for Farm and Ranch Workers Act*" ("Bill 6" or the "Bill") was passed.¹ As we all know, it was a Bill that was mired in controversy, met with protest, and plagued by "miscommunication", misinformation, and confusion – even among those supporting it, and the agencies destined to enforce it. Yet despite all of that, it passed – albeit in a substantially amended form – and is now law. But the miscommunication, misinformation, and confusion, remain. And that's particularly dangerous for farmers and ranchers who are trying to make sense of it all, with many simply choosing to rely on "working groups" that are yet to provide them with any recommendations, regulations, or guidance.

They've got questions, and are looking for answers – and it's that information that I want to share in this paper. Having worked closely with the farming and ranching community over the past two years and sat in on several of the town hall meetings and discussions, I've compiled a list of the top 6 lingering misconceptions about Bill 6 that farmers, ranchers, government officials, and the media are continuing to operate under and/or espouse. This paper will address each of them, and provide you with practical information to draw on when discussing the impact of Bill 6 on your clients' farming and ranching operations, particularly as it relates to the application of Alberta's Occupational Health and Safety Legislation (the "Legislation"). Consider it a crash course in Occupational Health & Safety Law, with insight from my experience as both OHS Defence Counsel, and a former OHS Prosecutor.

YOU'VE GOT THAT RIGHT: IT'S NO LONGER ABOUT THE FAMILY FARM

Before we jump into things, however, let's get one thing out of the way. Namely, whether the changes ushered in by Bill 6 apply to the "family farm", or more specifically, what farming and ranching operations are now expected to comply with the Legislation?

Notwithstanding all the references to "miscommunication", and follow-up statements from the Province that the changes introduced by Bill 6 were never "intended" to remove the exemption for the "family farm", the fact is that the original version of the Bill did just that. It may not have been "intended" that way, but make no mistake that in effect, the Legislation would have applied full-bore to the "family farm" just like any other employer or industry. In very simple terms, the first draft of Bill 6 simply removed the farming and ranching exemption in its entirety. By removing the exemption, it

¹ http://www.assembly.ab.ca/net/index.aspx?p=bills_status&selectbill=006&legl=29&session=1

removed the one (and only) thing that was preventing the Legislation from applying to farmers and ranchers. End of discussion.

While it was a key point of contention at the time the Bill was introduced, the confusion around this particular issue, at least, was eventually tempered through the amendments made to the Bill. Now, a clear exemption for the “family farm” exists, although the extent to which it applies is dependent on the nature of the familial relationship, and/or the payment of wages. Simply stated, if a farming and ranching operation pays wages to anyone other than a specified family member, it falls within the reach of Bill 6 and needs to comply with the changes. If it doesn’t pay wages to anyone, or pays wages only to a specified family member, then it need not comply (although for the record, it’s always a good idea to have some sort of health and safety program!). It’s the former category – the ones that the Legislation applies to and that need to comply – that are the focus of this paper.

BUT I’M AFRAID YOU’RE MISTAKEN: 6 LINGERING MISCONCEPTIONS ABOUT BILL 6

1. That “Things Were Fine the Way They Were”, and/or “A New Government Will Repeal the Changes and Get Rid of All This Nonsense”.

1.1 Perhaps. But the reality is, things *weren’t* actually fine beforehand. It’s just not for the reason that most people think. And arguably, it wasn’t tied to troubling accident/injury statistics.

1.2 To understand that, however, we need to consider why the exemption for farming and ranching was there in the first place, and recognize that it was never intended as a *carte blanche* type exemption for any and all farming and ranching operations.

1.3 If you look at earlier versions of the Legislation, and specifically the *Farming and Ranching Exemption Regulation*, you’ll see that while certain farming and ranching operations were specifically excluded:

i.e. those operations directly or indirectly involved in: (a) the production of crops, including fruits and vegetables, through the cultivation of land, (b) the raising and maintenance of animals or birds, and (c) the keeping of bees,

others were specifically included:

i.e. (a) operations involved in the processing of food or other products covered by the exemption, (b) the operation of greenhouses, mushroom farms, nurseries, or sod farms, (c) operations involved in landscaping, and (d) operations involved in the raising and boarding of pets.²

² *Farming and Ranching Exemption Regulation*, Alta. Reg. 27/1995, s. 2.