

The Agricultural Implements Act

being

Chapter A-10 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979), as amended by the *Statutes of Saskatchewan, 1979, c.69; 1979-80, c.9, 10 and 92; 1980-81, c.44; 1983, c.29; 1988-89, c.42 and 52; 1991, c.T-1.1; 1992, c.43; 1993, c.P-6.2; 1998, c.P-42.1; and 2003, c.5.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

1	Short title	27	Prohibition respecting sale by dealer
2	Interpretation	28	Tampering with serial number prohibited
3	Application of Act	29	Information to be supplied by distributor
3.1	Financial lease of farm machinery or equipment	30	Penalty for failure to comply with section 29
3.2	Notice to dealer	31	Repealed
4	Non-application	32	Failure of dealer to maintain supply of repairs
5	Powers of minister	33	Provisions respecting emergency repair service and parts
6	Employees	34	Inspections
7	Agricultural Implements Board	35	Contracts to be in writing
8	Provision for supplies and departmental services	36	Warranties re sale of new implement
8.1	Other services for board	36.1	Certain warranties enforceable by purchaser under lease
9	Powers of board	37	Contracts to be kept two years and produced on request
10	Application by farmer for compensation for loss	37.1	Application of certain sections to leases, etc.
10.1	Penalty fee	37.2	Lease, etc., may be assigned
11	Further material with application, etc.	38	Repealed
12	Fund	39	Contract not binding until signed by dealer
13	Classifying distributors for assessment	40	Payment to dealer's agent deemed payment
14	Power of board to enforce payments due	41	Security interest of dealer
15	Agreement to waive claim invalid, payments not subject to attachment, etc.	42	Repealed
16	Investments	43	Repealed
17	Audit of accounts of board	43.1	Dealer deemed to be agent of assignee
18	Tabling of documents	44	Liability of original dealer
19	Immunity from liability	45	Purchaser's right to reject
20	Decision of board final, jurisdiction of board	46	Contracts to comply with Act
21	Offence and penalty	47	Effect of clerical errors in contract
22	Advances to board for temporary purposes	48	Contract is entire contract
23	Fiscal year	49	Validity of forms
24	Distributors	50	Supplier to purchase dealer's unused stock if agreement ends
25	Supply of repairs by distributors	51	Supplier to furnish information to minister
26	Dealers' licences	52	Expenditures
26.1	Cancellation, alteration or suspension of dealers' licences	53	Regulations
26.2	Financial institutions exempt from requirement to hold dealer's licence	54	Limitation on prosecution

CHAPTER A-10

An Act respecting the Sale of Agricultural Implements

Short title

1 This Act may be cited as *The Agricultural Implements Act*.

Interpretation

2 In this Act:

- (a) **“board”** means the Agricultural Implements Board continued pursuant to section 7;
- (b) **“dealer”** means a person who:
 - (i) sells or offers for sale implements or parts in Saskatchewan on that person’s own account or on account of a distributor; or
 - (ii) leases or offers for lease, with or without the right to purchase, implements or parts in Saskatchewan on that person’s own account or on account of a distributor;

but does not include a person who operates a repair shop from which no new or used implements are sold and no new implements are leased or from which parts are sold as a part of repair services to implements;

- (c) **“department”** means the department over which the minister presides;
- (d) **“distributor”** means a person who:
 - (i) either:
 - (A) represents a manufacturer; or
 - (B) represents a person who sells, offers for sale, leases or offers for lease implements or parts in Saskatchewan; and
 - (ii) is responsible to the manufacturer or person mentioned in subclause (i) with respect to the distribution and marketing of those implements or parts in Saskatchewan;
- (e) **“financial institution”** means any of the following institutions if the legislation of the jurisdiction where the institution is incorporated or continued authorizes the institution to engage in financial leasing and the institution’s constating documents or bylaws do not prohibit it from engaging in financial leasing:
 - (i) a bank to which the *Bank Act* (Canada) applies;
 - (ii) an entity licensed pursuant to *The Trust and Loan Corporations Act, 1997*, including a financial leasing corporation as defined in that Act;

- (iii) a credit union incorporated, continued or registered pursuant to *The Credit Union Act, 1998*;
 - (iv) Credit Union Central of Saskatchewan;
 - (v) Farm Credit Canada;
 - (vi) any other similar institution that is prescribed in the regulations;
- (f) **“financial lease”** means a lease or lease-purchase between a financial institution and a purchaser that, after allowing for the rate of return to the financial institution agreed to by the purchaser, is intended to recoup to the financial institution its entire investment in the implement, taking into consideration the value of any tax benefits accruing to the financial institution on account of the lease or lease-purchase, including:
- (i) tax credits; and
 - (ii) capital cost allowance claims;
- (g) **“implement”** means any implement, equipment or machine that is used or intended for use on a farm and that is within the definition of implement prescribed in the regulations;
- (h) **“lease”** means a lease of an implement for more than 30 days under which the lessee is not given the right to purchase the implement;
- (i) **“lease-purchase”** means a lease of an implement for more than 30 days under which the lessee is given the right to purchase the implement;
- (j) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (k) **“part”** means a part for an implement and includes a repair, but does not include any services for installing the part;
- (l) **“purchaser”** means a person who:
- (i) purchases or leases, with or without the right to purchase, an implement from a dealer in Saskatchewan; or
 - (ii) leases, with or without the right to purchase, an implement from a financial institution in Saskatchewan under a financial lease, if the financial institution obtains the implement from a dealer licensed pursuant to this Act at the request of the person;
- (m) **“repair”** means a repair part for an implement, but does not include any services for installing the repair part;
- (n) **“security interest”** means an interest in an implement that secures payment or performance of an obligation.

Application of Act

- 3(1)** Subject to the other provisions of this Act, this Act applies:
- (a) to all sales of new implements by dealers in Saskatchewan to purchasers; and
 - (b) to all leases and lease-purchases of new implements by purchasers from dealers in Saskatchewan.
- (2) If a provision of this Act does not expressly state that it applies to sales of new implements, that provision also applies to sales of used implements.

2003, c.5, s.3.

Financial lease of farm machinery or equipment

3.1 If a financial institution in Saskatchewan acquires a new implement from a dealer licensed pursuant to this Act at the request of a purchaser and leases the implement to the purchaser pursuant to a financial lease:

- (a) the purchaser is deemed to have leased the new implement from the dealer;
- (b) this Act applies with respect to that new implement to the same extent as if the purchaser had leased the new implement directly from the dealer pursuant to a lease or lease-purchase contract with the dealer; and
- (c) the dealer has the same obligation to the purchaser that the dealer would have pursuant to this Act if the purchaser leased the new implement directly from the dealer.

2003, c.5, s.3.

Notice to dealer

- 3.2(1)** At the time a financial institution obtains a new implement from the dealer, it must inform the dealer of the name and address of the purchaser who is leasing the new implement.
- (2) A financial institution's failure to inform as required pursuant to subsection (1) does not affect the purchaser's rights or the dealer's obligations pursuant to section 3.1.

2003, c.5, s.3.

Non-application

- 4(1)** This Act does not apply to sales of implements:
- (a) by farmers in the ordinary course of their farming operations;
 - (b) by an executor, administrator or a person acting under judicial process; or
 - (c) by auction sale.

(2) Except as provided in sections 50 and 51, this Act does not apply to sales of implements to persons carrying on an implement business who procure implements for use in that business or for resale.

1968, c.1, s.3; 1970, c.2, s.2; R.S.S. 1978, c.A-10, s.4; 1979-80, c.10, s.4.

Powers of minister

5 The minister may, for the purpose of carrying out the provisions of this Act, upon such terms and subject to such conditions as may be determined by the Lieutenant Governor in Council:

(a) enter into an agreement with any department or agency of the Government of Saskatchewan or with the Government of Canada or of any province of Canada or with any university or any research agency or person, providing for the carrying on of research or the conducting of investigations or inquiries;

(b) carry on investigations and studies on behalf of any person or organization.

1968, c.1, s.5; R.S.S. 1978, c.A-10, s.5.

Employees

6 The minister may appoint employees that are required for the purposes of this Act; and upon appointment the employees are subject to *The Public Service Act, 1998*.

1968, c.1, s.6; R.S.S. 1978, c.A-10, s.6; 1998, c.P-42.1, s.42.

Agricultural Implements Board

7(1) There shall continue to be a board known as the Agricultural Implements Board consisting of not less than three or more than seven members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may designate one of the members to be chairperson of the board and one other member to be vice-chairperson of the board.

(2.1) The chairperson is responsible for the general supervision and direction of the affairs of the board.

(2.2) The board may make rules governing:

(a) the practice and procedure of the board;

(b) the schedule of its hearings; and

(c) subject to this Act and the regulations, the business of the board.

(3) The board shall determine its own rules and procedures and the method of calling meetings and giving notice of meetings to members of the board.

(4) Where a member of the board is unable to perform the duties of his office by reason of absence, other than a temporary absence, incapacity or for any other reason, the minister may appoint a person to be a member of the board, upon such terms and conditions as the minister may prescribe, in the place of the member who is unable to perform those duties for a term not exceeding four months.

(5) A majority of the members of the board shall be a quorum of the board for the transaction of business and in the event of an equality of votes on any matter before the board, the chairman or person acting as chairman has a casting vote.

(6) A member of the board shall receive such remuneration for his services and allowances for travelling and other expenses as the Lieutenant Governor in Council may determine.

1973, c.1, s.3; R.S.S. 1978, c.A-10, s.7; 2003, c.5, s.4.

Provision for supplies and departmental services

8 The minister may provide the board with any supplies and the services of any employees under the minister's administration that the minister considers necessary in order to assist the board in carrying out its powers and fulfilling its duties pursuant to this Act.

2003, c.5, s.5.

Other services for board

8.1 In addition to the services mentioned in section 8, the minister may engage, on behalf of the board, the services of any legal counsel, consultants or technical advisers that the minister considers appropriate to assist the board in carrying out its powers and fulfilling its duties pursuant to this Act.

2003, c.5, s.5.

Powers of board

9 The board may:

- (a) receive and investigate complaints made to it pursuant to this Act;
- (b) recommend to the minister appropriate action to reduce or correct unreasonable delays in the delivery of repairs and unreasonable charges for repairs;
- (c) for the purposes of a hearing pursuant to section 10, review and consider leases, financial leases and sales contracts with respect to an implement;
- (d) hold public meetings or hearings; and
- (e) carry out any further functions that the Lieutenant Governor in Council may direct in any manner that the Lieutenant Governor in Council may authorize.

2003, c.5, s.5.

Application by farmer for compensation for loss

10(1) In this section, “**implement**” means an implement purchased or leased by:

- (a) a farmer who is applying for compensation pursuant to this section; or
- (b) a person who transferred the implement to the farmer who is applying for compensation pursuant to this section.

(1.1) A farmer may apply to the board for an award of compensation for any damages or loss the farmer has suffered if:

- (a) the farmer feels aggrieved, or believes that the farmer has incurred a loss, due to an unreasonable delay in the availability of a repair to an implement; or
- (b) the farmer considers that the farmer has incurred a loss due to the dealer or the distributor not fulfilling the conditions or warranties set out in this Act or pursuant to a lease or sales contract with respect to an implement.

(1.2) A farmer is not entitled to apply to the board for an award pursuant to subsection (1.1) with respect to:

- (a) a deposit paid for an implement purchased by the farmer; or
- (b) the value of any implement traded in by the farmer to purchase another implement.

(2) Upon receipt of an application under subsection (1.1), the board may, subject to the regulations with respect to notice of the hearing to interested parties and the conduct of the hearing, dismiss the application or make compensation to the applicant farmer out of the Agricultural Implements Compensation Fund.

(3) The decisions and findings of the board upon all questions of law and fact are final and conclusive.

(4) Where a farmer has suffered loss, within the meaning of subsection (1.1), the farmer may claim compensation under this section or alternatively the farmer may commence an action in any court of competent jurisdiction.

(5) Where an application is made to the board under this section it shall act as a bar to any court action with respect to the matters affected thereby.

(6) Compensation shall not be awarded to a farmer under this section in respect of damages or losses unless notice of the damages or losses is given to the distributor, the dealer and the board within six months after the damages or losses were alleged to have been incurred and the notice shall set out the name and address of the farmer and shall be sufficient if it states in ordinary language the cause of the damages or losses and where they were incurred.

(7) The notice must be given:

- (a) to the distributor and the dealer by delivering it at or sending it by registered mail addressed to their respective places of business;
- (b) to the board by delivering it to or sending it by registered mail addressed to the board.

(8) Failure to give the prescribed notice or any defect or inaccuracy in a notice does not bar the right to compensation if the board is of opinion that the claim to compensation is a just one and ought to be allowed.

1973, c.1, s.3; 1976, c.2, ss.3 & 20; R.S.S. 1978, c.A-10, s.10; 1979-80, c.10, s.5; 2003, c.5, s.6.

Penalty fee

10.1(1) The board may impose a penalty fee on a dealer or distributor if:

- (a) the dealer or distributor was given notice of a hearing pursuant to section 10; and
- (b) as a result of the hearing mentioned in clause (a):
 - (i) the board awarded compensation to a farmer; and
 - (ii) the board determined that the dealer or distributor was, in the board's opinion, responsible for all or part of the loss incurred by the farmer and:
 - (A) the dealer or distributor failed to attend the hearing without providing to the board an excuse that is, in the board's opinion, reasonable;
 - (B) the dealer or distributor has repeatedly been in breach of warranty or repair obligations to an extent that the board considers to be detrimental to farmers; or
 - (C) the dealer or distributor, in the board's opinion, intentionally disregarded its warranty or repair obligations to the farmer when the farmer sought to have the dealer or distributor fulfil those obligations.

(2) The maximum amount of a penalty fee that may be imposed pursuant to subsection (1) is the amount of compensation awarded to the farmer at the hearing.

(3) The board shall give notice to the dealer or distributor of:

- (a) any penalty fee imposed on the dealer or distributor; and
- (b) the period within which the penalty fee must be paid.

(4) The notice mentioned in subsection (3) may be served by personal service or by registered mail.

(5) No dealer or distributor against whom a penalty fee has been imposed pursuant to this section shall fail to pay the penalty fee within the period set out in the notice mentioned in subsection (3).

(6) Any penalty fee paid pursuant to this section is to be paid into the Agricultural Implements Compensation Fund.

2003, c.5, s.7.

Further material with application, etc.

11(1) A farmer desirous of claiming compensation under section 10 shall within six months after the damages or losses were allegedly incurred file with the board an application for the compensation and any further or other evidence of his claim that may be required by the board.

(2) No action lies for the recovery of compensation under section 10 from the board but all applications for compensation shall be heard and determined by the board.

(3) An award for compensation to a farmer under section 10 shall not exceed \$10,000.

(4) Compensation payable to farmers in amounts determined by the board and the expenses of investigating and hearing claims for compensation shall be paid out of the Agricultural Implements Compensation Fund.

1973, c.1, s.3; 1976, c.2, s.4; R.S.S. 1978, c.A-10, s.11; 2003, c.5, s.8.

Fund

12(1) The Agricultural Implements Compensation Fund is hereby continued and all distributors shall make contributions to the fund in accordance with this section.

(2) The board shall, in each year, assess and levy upon distributors any rates or specific sums that it considers sufficient:

- (a) to pay compensation to farmers during the current year;
- (b) to defray the expenses of investigating and hearing claims for compensation under this Act; and
- (c) to maintain a reserve fund to pay compensation that may become payable in the future.

(3) The board may levy the assessment under subsection (2) provisionally and may permit the amount so levied to be paid in instalments in an amount fixed by the board.

(4) Every distributor, within one month or within any other period of time that the board may fix, after service on him of notice of the assessment levied under subsection (2), shall pay to the board:

- (a) the sum assessed; or
- (b) where the sum is to be paid in instalments, the first and remaining instalment or instalments within the time specified; or
- (c) where the sum is provisional, any increased amount resulting from the adjustment in the levy according to the terms and at the time or times specified.

(5) The notice under subsection (4) may be served by sending it by registered mail, postage prepaid, and it is deemed to have been served on the day on which the notice was mailed.

(6) Where at any time it appears that an assessment or a provisional assessment is too low for the purposes set out in subsection (1), the distributor shall, on demand, pay to the board any additional sum assessed by the board, and payment of that sum may be enforced in the manner prescribed by this Act.

(7) Any specific sum or other rate determined and fixed by the board under this section shall be published in the Gazette immediately after it is fixed.

1979-80, c.10, s.6.

Classifying distributors for assessment

13 For the purpose of assessing distributors, the board may classify distributors and assess different rates for any class or classes of distributors.

1973, c.1, s.3; 1976, c.2, s.20; R.S.S. 1978,
c.A-10, s.13.

Power of board to enforce payments due

14(1) In this section, “**amount owing**” means:

- (a) the amount of a penalty fee imposed pursuant to section 10.1 on a dealer or distributor; or
 - (b) the amount levied pursuant to section 12 on a distributor.
- (2) A dealer or distributor shall pay as a penalty for default any percentage of the amount owing that remains unpaid that is prescribed in the regulations if:
- (a) the dealer or distributor fails to pay a penalty fee imposed on the dealer or distributor pursuant to section 10.1 within the period set out in a notice given pursuant to that section; or
 - (b) the distributor fails to pay any amount levied pursuant to section 12 on the distributor within the time required by that section.
- (3) If a dealer or distributor fails to pay an amount owing within the required period, the board may file with a local registrar of the Court of Queen’s Bench at any judicial centre a certificate that sets out:
- (a) the amount owing that remains unpaid at the date of the certificate;
 - (b) the amount of any penalty imposed pursuant to subsection (2); and
 - (c) the person from whom the amount owing and penalty are recoverable.
- (4) A certificate filed pursuant to this section has the same effect as if it were a judgment obtained in the Court of Queen’s Bench for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

2003, c.5, s.9.

Agreement to waive claim invalid, payments not subject to attachment, etc.

15(1) No farmer shall agree with a distributor or dealer to waive or forego any of the benefits to which he is or may become entitled under section 10 or 11, and every agreement to that end is void.

(2) Except with the approval of the board, no sum payable as compensation under section 10:

- (a) is subject to garnishment, or attachment or seizure or any legal process;
- (b) is assignable; or
- (c) passes by operation of law unless to a personal representative.

1973, c.1, s.3; R.S.S. 1978, c.A-10, s.15.

Investments

16(1) The board shall invest any part of the moneys standing to the credit of the fund and not immediately required for its purposes in any of the following classes of securities:

- (a) securities authorized for investment or loan of a company's funds under subsections (1), (2) and (6) of section 63 of the *Canadian and British Insurance Companies Act* (Canada) subject to the restrictions and limitations contained in that section;
- (b) any other securities authorized for investment of moneys in the general revenue fund pursuant to *The Financial Administration Act, 1993*;
- (c) bonds, debentures, notes or other evidences of indebtedness issued by a corporation created under *The Crown Corporations Act, 1993* or a corporation established by an Act of the Legislature and that is an agent of the Crown or responsible to the Legislature.

(2) The board may dispose of any securities in which any part of the fund has been invested pursuant to subsection (1) in such manner and on such terms as the board deems expedient.

(3) The board shall each year include with the annual report made by it pursuant to section 18, a statement of all securities in which moneys of the fund have been invested pursuant to this section, a statement of such securities that have been so acquired during the next preceding fiscal year and a statement of all dispositions of such securities during that period.

(4) In this section, "**the fund**" means the Agricultural Implements Compensation Fund continued pursuant to section 12.

1973, c.1, s.3; R.S.S. 1978, c.A-10, s.16; 1979, c.69, s.3; 1983, c.29, s.2; 1988-89, c.42, s.4; 2003, c.5, s.10.

Audit of accounts of board

17 The accounts of the board shall be audited by the Provincial Auditor or by an auditor appointed by the Lieutenant Governor in Council for that purpose and the costs of the audit shall be paid by the board.

1973, c.1, s.3; R.S.S. 1978, c.A-10, s.17.

Tabling of documents

18(1) In each fiscal year, the board, in accordance with *The Tabling of Documents Act, 1991*, shall prepare and submit to the minister:

- (a) a report on the activities of the board for the preceding fiscal year; and
 - (b) a financial statement showing the business of the board for the preceding fiscal year.
- (2) The financial statement mentioned in clause (1)(b) is to be in the form required by Treasury Board.
- (3) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Assembly each report and financial statement received by the minister pursuant to subsection (1).

1991, c.T-1.1, s.6.

Immunity from liability

19 No action lies or shall be instituted against:

- (a) the Crown in right of Saskatchewan;
- (b) the minister;
- (c) the board or any member of the board;
- (d) an officer of, or consultant or technical adviser to, the board; or
- (e) any employee or officer of the department;

for any loss or damage suffered by any person by reason of anything in good faith done, attempted to be done or omitted to be done, pursuant to or in the exercise or supposed exercise of any power, function or duty conferred by this Act or the regulations.

2003, c.5, s.11.

Decision of board final, jurisdiction of board

20(1) There is no appeal from any order or decision of the board under this Act, but, if new evidence is submitted to the board, relevant to a matter in respect of which the board has made an order or rendered a decision, within thirty days of the order or decision, the board may rehear the case in which the order or decision was made or may review, rescind, vary or confirm the decision or order.

(2) The board may determine any question of fact necessary to its jurisdiction, and its proceedings, orders and decisions shall not be reviewable by any court of law or by *certiorari*, *mandamus*, prohibition, injunction or other proceeding whatsoever.

1973, c.1, s.3; R.S.S. 1978, c.A-10, s.20.

c. A-10**AGRICULTURAL IMPLEMENTS****Offence and penalty**

21(1) Every distributor who fails to pay any amount to the board as required by section 12 is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000.

(2) No prosecution for an offence mentioned in subsection (1) shall be instituted without the consent of the board.

(3) **Repealed.** 2003, c.5, s.12.

1973, c.1, s.3; 1976, c.2, s.20; R.S.S. 1978, c.A-10, s.21; 2003, c.5, s.12.

Advances to board for temporary purposes

22(1) With the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, the Minister of Finance may, without any further authority or appropriation than is provided by this section, make loans out of the general revenue fund to the board for any of its temporary purposes.

(2) The aggregate of loans outstanding under this section shall not at any time exceed \$500,000.

(3) A loan made under subsection (1) is repayable within a period not exceeding eighteen months from the day on which the loan is received.

1973, c.1, s.3; R.S.S. 1978, c.A-10, s.22; 1979, c.69, s.3; 2003, c.5, s.13.

Fiscal year

23 The fiscal year of the board shall be the period commencing on the first day of April in one calendar year and ending on the last day of March in the next calendar year, both dates inclusive.

1976, c.2, s.3; R.S.S. 1978, c.A-10, s.23.

Distributors

24(1) Every person, including a manufacturer, who sells or offers for sale, implements in the province shall appoint as his representative in the province one or more distributors; but where the person or the manufacturer has a branch of his business in the province, that branch may be a distributor.

(2) Where a manufacturer or person resides or has his head office in the province and has not appointed a distributor he shall be deemed to be his own distributor.

(3) Subsections (1) and (2) do not apply to a person who has not manufactured the implements sold or offered for sale but sells the implements or offers them for sale by retail only.

(4) Within seven days after being appointed as a distributor pursuant to subsection (1), the distributor shall file with the board a statement showing the distributor's name and the location of the distributor's place of business in Saskatchewan.

(5) On or before April 1 in each year, every distributor shall file with the board a statement showing the name and location of every dealer in the province who obtains or is likely to obtain implements from or through the distributor.

(6) If, after a statement is filed pursuant to subsection (5), any dealer mentioned in that statement proposes to change its location or the distributor proposes to appoint any additional dealer to represent the distributor, the distributor shall file with the board a written notice of the intended change or appointment.

(6.1) The written notice mentioned in subsection (6) must be filed at least five days before the change is made or the additional dealer is appointed.

(6.2) If the contract between the distributor and a dealer mentioned in a statement filed pursuant to subsection (5) is terminated, the distributor must file a written notice of that termination with the board not later than 30 days after the date of termination..

(7) Every distributor who fails to comply with subsection (4), (5), (6), (6.1) or (6.2) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 for every day during which the default continues.

R.S.S. 1978, c.A-10, s.24; 2003, c.5, s.14.

Supply of repairs by distributors

25 Every distributor who has sold or distributed implements or has implements sold or distributed on his behalf, and those implements are in operation in the province, and who fails to maintain in the province an adequate supply of repairs that may be required for those implements is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

R.S.S. 1978, c.A-10, s.25; 1979-80, c.10, s.7.

Dealers' licences

26(1) No dealer shall sell, offer for sale, lease or offer for lease, or enter any lease-purchase contract respecting, an implement or part in Saskatchewan unless that dealer holds a licence to do so issued pursuant to subsection (3).

(2) A dealer who wishes to obtain a licence mentioned in subsection (1) shall:

- (a) apply to the minister in the form prescribed in the regulations; and
- (b) pay any fee that may be prescribed in the regulations.

(3) The minister may issue to the dealer the licence applied for if the minister is satisfied that the dealer meets all the requirements of this Act and the regulations.

(4) The minister may impose any terms and conditions on a licence that the minister considers appropriate.

(5) No dealer shall fail to comply with the terms and conditions imposed on the dealer's licence.

- (6) Every dealer who contravenes subsection (1) or (5) is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000.
- (7) If a dealer who is required by this section to hold a licence issued pursuant to this section does not hold a valid licence, the minister may give written notice of that contravention to any persons that the minister considers necessary.
- (8) A written notice mentioned in subsection (7) must be given in the manner prescribed in the regulations.
- (9) No person to whom a written notice has been given pursuant to subsection (7) shall, while the dealer remains unlicensed, deliver or cause to be delivered an implement or part to:
- (a) the dealer;
 - (b) a person designated by the dealer; or
 - (c) a person seeking to acquire an implement or part through the dealer.
- (10) Every person to whom a written notice has been given pursuant to subsection (7) and who contravenes subsection (9) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

2003, c.5, s.15.

Cancellation, alteration or suspension of dealers' licences

26.1(1) The minister may cancel, alter or suspend a licence issued pursuant to section 26 if:

- (a) the person to whom the licence was issued fails to observe, perform or comply with this Act, the regulations or any term or condition of the licence;
- (b) the person to whom the licence was issued makes any false or misleading statement in any application, information, materials or plans supplied pursuant to this Act or the regulations in support of an application for a licence;
- (c) the licence was issued as a result of a clerical or administrative error or mistake;
- (d) in the opinion of the minister, the licence holder or, in the case of a corporate licence holder, the licence holder's officers or directors cannot reasonably be expected to be financially responsible in the conduct of his, her or its business;
- (e) the licence holder fails to pay any penalty imposed on the licence holder pursuant to section 10.1 within the period set out in a notice given pursuant to that section; or
- (f) the minister is satisfied that it is in the public interest to do so.

- (2) Before the minister takes any action pursuant to subsection (1), the minister shall give the person to whom the licence is issued:
- (a) written notice of the minister's intention to cancel, alter or suspend the licence, and the reasons for doing so; and
 - (b) an opportunity to make written representations to the minister, within 30 days after the written notice mentioned in clause (a) is given, as to why the licence should not be cancelled, altered or suspended.
- (3) The minister is not required to give an oral hearing to any person to whom a notice has been given pursuant to subsection (2).
- (4) After receiving the representations mentioned in subsection (2), the minister shall provide a written decision and forward that written decision to the person to whom the licence was issued.

2003, c.5, s.15.

Financial institutions exempt from requirement to hold dealer's licence

26.2 Notwithstanding section 26, a financial institution is not required to hold a dealer's licence in order to lease an implement, or offer an implement for lease, pursuant to a financial lease if the implement is acquired from a dealer licensed pursuant to this Act at the request of a purchaser.

2003, c.5, s.15.

Prohibition respecting sale by dealer

27(1) No dealer shall sell or offer for sale an implement or part in the province unless the implement or part is obtainable from or through a distributor.

(1.1) Subsection (1) does not apply if the manufacturer and distributor of the implement cease to carry on business.

(2) Subsection (1) does not apply with respect to second-hand implements or parts.

(3) A dealer who violates subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.

R.S.S. 1978, c.A-10, s.27; 1979-80, c.10, s.9; 2003, c.5, s.16.

Tampering with serial number prohibited

28(1) No person shall obliterate, deface, alter, render illegible or remove the manufacturer's serial number of an implement.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

2003, c.5, s.17.

Information to be supplied by distributor

29 Upon request by the minister, a distributor selling or offering implements for sale in the province shall within such time as is prescribed in the request provide the minister with a list of all implements and parts, or of such implements and parts as the minister may specify that are sold, offered for sale or intended to be offered for sale in the province, showing suggested retail prices at which those implements and parts are sold, offered for sale or intended to be offered for sale, together with illustrations, descriptions and specifications of those implements and parts.

R.S.S. 1978, c.A-10, s.29.

Penalty for failure to comply with section 29

30 Every distributor who fails to comply with section 29 is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 for every day during which the offence continues.

R.S.S. 1978, c.A-10, s.30.

31 Repealed. 2003, c.5, s.18.

Failure of dealer to maintain supply of repairs

32 Section 25 applies, *mutatis mutandis*, to a dealer of implements and parts except that the penalty shall not exceed \$500.

R.S.S. 1978, c.A-10, s.32; 1979, c.69, s.3;
1979-80, c.10, s.12.

Provisions respecting emergency repair service and parts

33(1) Where, within ten years of the date of its sale, as a new implement an implement breaks down during the season of use and cannot be operated to perform, with reasonable efficiency, the intended functions set out in the contract of purchase, the dealer and the distributor shall provide to the purchaser emergency parts service for the implement.

(2) Where parts are required for emergency repairs, the purchaser shall, when ordering the parts, notify the dealer that the parts are required for emergency repairs and the dealer shall identify the order as an emergency order and indicate thereon the date and time the order was placed and provide the purchaser with a copy of the order.

(3) Where the purchaser has, under subsection (2), notified the dealer that parts are required for emergency repairs, the dealer shall notify the distributor to that effect.

(4) Where a purchaser orders parts for emergency repairs, the dealer and the distributor shall ensure that those parts are available at the dealer's place of business within seventy-two hours from the time the order was made, not including Sundays and holidays, unless delivery of the parts cannot be made within that time because of strikes or other conditions beyond the control of the dealer and the distributor.

(5) **Repealed.** 2003, c.5, s.19.

(6) Any extra costs in excess of the current list price charged to a purchaser for obtaining repair parts shall be shown separately on the invoice or bill to the purchaser and no such extra cost shall be included as part of the price of the parts.

(7) Where a dealer or distributor from whom a purchaser orders parts fails to obtain those parts within the time specified in subsection (4), the dealer and distributor are jointly and severally liable, except where delivery of the parts cannot be made because of conditions beyond the control of the dealer and the distributor, to pay to the purchaser an amount equal to one-half of the normal rental rate applicable for the implement from the date of the expiry of the time limit for delivery to the date on which those parts are made available to the purchaser at the dealer's place of business.

(8) The payment under subsection (7) shall be made only for the time during which the implement would normally have been used.

(9) In lieu of making payments as set out in subsections (7) and (8), the dealer and distributor may:

(a) supply the purchaser with another implement that is suitable and capable of functioning properly; and

(b) if the dealer and distributor supply the purchaser with another implement pursuant to clause (a), charge the purchaser rental for that implement, to a maximum of one-half of the normal rental rate for that implement.

(9.1) The dealer and distributor are jointly responsible for supplying the replacement equipment and are to bear equally the cost imposed on them pursuant to subsection (9) of supplying the replacement equipment.

(9.2) Replacement equipment may be supplied:

(a) by the dealer or distributor; or

(b) if the dealer or distributor chooses not to supply the replacement equipment, by another supplier at the expense of the dealer and distributor.

(9.3) In subsections (9.1) and (9.2), **“replacement equipment”** means an implement supplied pursuant to subsection (9).

(10) The normal rental rates mentioned in this section shall be those established by the board.

Inspections

34(1) Employees appointed as inspectors for the purposes of this Act may inspect within the province the manufacturing of implements sold or offered for sale by dealers and distributors and the stock of repairs maintained by them and for these purposes shall, during the usual business hours, have free access and admission to the premises of dealers and distributors and of their agents.

(2) Every dealer or distributor or an agent of either who refuses to permit an employee mentioned in subsection (1) to enter his premises during the usual business hours for the purposes mentioned in subsection (1) and every person who obstructs such an employee in the performance of his duties is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

R.S.S. 1978, c.A-10, s.34; 1979-80, c.10, s.14;
2003, c.5, s.20.

Contracts to be in writing

35(1) Where an implement is sold, whether for cash or on credit, if the implement is new, the contract for the sale shall be in writing in the form prescribed in the regulations and, if the implement is second-hand, the contract shall be in writing in the form prescribed in the regulations; but a contract, whether it is for a new or second-hand implement, may contain additional warranties and conditions if those warranties and conditions do not derogate from or conflict with any of the warranties and conditions set out in this Act and the relevant forms prescribed in the regulations.

(2) Where the regulations prescribe that a form of sales contract, or a part or provision of such a contract, is to be used for new implements only, but where such a contract, part or provision is used for a second-hand or rebuilt implement, the contract, part or provision shall be conclusive evidence that the implement sold is or is warranted to be a new one.

(3) Where subsection (1) is not complied with:

(a) the contract shall not be invalid on that account only, but all the terms, conditions and warranties of the form that should have been used shall, so far as applicable, be held to apply and to be incorporated in the contract in the same manner as if it had been reduced into writing in the prescribed form and, in the case of the sale of a new implement, where the contract has not been reduced into writing and signed by the parties thereto the purchaser shall have, instead of a ten days' trial as provided in clause 36(5)(a), a thirty days' trial period and he shall within the said thirty days or within two days after the expiration thereof give notice in writing to the dealer or in his absence to the distributor that the implement does not work well, and thereupon all the terms and conditions set out in this Act and in the form prescribed in the regulations, except the limitation as to a ten days' trial period, shall apply;

- (b) if no agent of the dealer has been named to whom a defective implement or part may be returned, the implement or defective part may be returned to the agency of the dealer at the place where the implement or part was purchased or, if there is no such agency, then to the dealer or to the nearest agent of the dealer;
 - (c) if the person to whom notice is to be given that the implement or part does not work well has not been specified, the purchaser may give notice to the dealer or to the distributor.
- (4) Nothing in this section shall be construed as dispensing with the necessity of a written contract where, under *The Sale of Goods Act* or the *Statute of Frauds*, such an instrument would be necessary to constitute a binding contract.

1968, c.1, s.16; 1976, c.2, ss. 10 & 20; R.S.S.
1978, c.A-10, s.35; 1979, c.69, s.3; 2003, c.5, s.21.

Warranties re sale of new implement

- 36(1)** Every contract for the sale of a new implement is deemed to include the express joint and several warranties on the part of the dealer and the distributor that are mentioned in this section.
- (2) The warranties mentioned in this section are to apply for the longer of:
- (a) one year from the date of first use of the new implement; and
 - (b) any longer period that is provided by this Act or is set out in the sales contract.
- (3) Every contract for the sale of a new implement is deemed to include a warranty that the new implement is well-made and of good materials.
- (4) Every contract for the sale of a new implement is deemed to include a warranty that, if the new implement is properly used and operated, it will perform well the work for which it is intended.
- (5) Every contract for the sale of a new implement is deemed to include a warranty that the purchaser may do the things mentioned in subsection (6) if:
- (a) the new implement does not perform well the work for which it is intended within a period that is the earlier of:
 - (i) the first 10 days of use by the purchaser during the season of use; and
 - (ii) the first 50 hours of use by the purchaser during the season of use;
 - (b) within the period mentioned in clause (a), the purchaser gives written notice to the dealer at the address given for the dealer in the sales contract, or to the distributor, that the implement does not work well; and
 - (c) within a period of seven days following receipt of the written notice mentioned in clause (b), the dealer or the distributor does not make the implement perform well the work for which it is intended.

- (6) In the circumstances mentioned in subsection (5):
- (a) the purchaser may, by giving written notice to the dealer or the distributor within the three days immediately following the seven-day period mentioned in clause (5)(c), reject the implement; and
 - (b) if the purchaser rejects the implement in accordance with clause (a):
 - (i) the sales contract is ended;
 - (ii) the purchaser is entitled to a return of any moneys paid or notes given by the purchaser for the purchase of the implement and of the freight charges paid by the purchaser; and
 - (iii) if any goods have been taken in trade by the dealer, the dealer shall:
 - (A) return those goods to the purchaser; or
 - (B) if the goods cannot be returned in the same condition or have been sold to a third party, pay to the purchaser the amount of the fair market value of those goods.
- (7) Notwithstanding subsections (5) and (6), the purchaser is deemed to forfeit the purchaser's right to reject an implement if the purchaser fails to give either of the written notices within the time limit mentioned in those subsections, unless the dealer or distributor either before or after the expiration of the time limit does any act or engages in any conduct that leads the purchaser to believe that the written notices are not required to be given or had been given.
- (8) If the dealer is required pursuant to subsection (6) to return any goods given in trade by the purchaser but has, before the termination of the sale contract, incurred costs or performed work in repairing or reconditioning those goods, the dealer may refuse to return those goods until:
- (a) the purchaser has paid for the reasonable costs of the repairs or reconditioning, including labour costs that must be determined using:
 - (i) the usual rate charged by that dealer at the time; and
 - (ii) a reasonable time charged for doing the work; or
 - (b) arrangements satisfactory to the dealer have been made for the payment of those costs.
- (9) Every contract for the sale of a new implement is deemed to include a provision that if, within the seven-day period mentioned in clause (5)(c), the dealer or distributor makes the new implement perform well the work for which it is intended and if the purchaser's failure to make the implement perform well was due to the purchaser's own improper management or want of skill in operating the implement, the purchaser shall pay the expenses incurred by the dealer or distributor in making the implement work well.

(10) Every contract for the sale of a new implement is deemed to include a warranty that:

- (a) the new implement will be durable if used under fit and suitable conditions and kept with proper care;
- (b) parts proving defective will be replaced free of charge on return of the defective parts to the dealer's place of business or to the distributor;
- (c) if the purchaser returns the new implement to the dealer's place of business, the dealer will install the new parts without charge; and
- (d) all parts replaced within the warranty period are durable for the duration of the original warranty period prescribed in subsection (2) or for 90 days from the date of installation, whichever is longer.

(11) Every contract for the sale of a new implement is deemed to include a warranty that, for a period of 10 years from the date of sale indicated on the sales contract:

- (a) all necessary parts for the implement will be kept by the distributor in Saskatchewan; and
- (b) the purchaser will be able to obtain all necessary parts within a reasonable time at the distributor's place of business.

2003, c.5, s.22.

Certain warranties enforceable by purchaser under lease

36.1 Without limiting the generality of section 3.1 or 37.1, a purchaser who leases a new implement pursuant to a financial lease is entitled to enforce the warranty mentioned in section 36 against the dealer and distributor who provided the new implement and, for that purpose:

- (a) the purchaser is deemed to have leased the new implement directly from the dealer and distributor; and
- (b) section 36 applies, with any necessary modification, to the purchaser and the dealer and distributor.

2003, c.5, s.22.

Contracts to be kept two years and produced on request

37 Every dealer shall keep one copy of every contract for the sale of an implement entered into by him for at least two years and shall, upon request of an employee appointed as an inspector for the purposes of this Act, produce the copy and allow the employee to make copies thereof.

1968, c.1, s.17; 1976, c.2, s.20; R.S.S. 1978, c.A-10, s.37.

Application of certain sections to leases, etc.

37.1 Sections 9, 10.1, 15, 24, 25, 27, 33, 34, 35, 36, 37, 39, 40, 41, 44, 45, 46 and 47 apply, with any necessary modification, to leases and lease-purchases of new implements as if they were sales agreements.

2003, c.5, s.23.

c. A-10**AGRICULTURAL IMPLEMENTS****Lease, etc., may be assigned**

37.2 A lease, lease-purchase or financial lease may be assigned by the lessor, his or her assignee and any sub-assignee.

2003, c.5, s.23.

38 Repealed. 2003, c.5, s.24.

Contract not binding until signed by dealer

39 The signing of a contract by a purchaser does not bind the purchaser to purchase the implement described in the contract until:

- (a) the contract is signed by the dealer or an agent of the dealer authorized to bind the dealer; and
- (b) a legible copy of the contract signed by the dealer or the dealer's agent is:
 - (i) sent by registered mail to the purchaser; or
 - (ii) personally delivered to the purchaser.

2003, c.5, s.25.

Payment to dealer's agent deemed payment

40 A purchaser of an implement or part may make any payment, whether due under the contract or under any note given therefor, to any sales or collection agent of the dealer in the province, and receipt of the payment by the agent shall be deemed to be receipt by the dealer; and the dealer may from time to time notify the purchaser in writing of the name and address of one or more persons to whom payments may be made; and thereafter all payments shall be made by the purchaser to the person or persons so named.

1968, c.1, s.20; 1976, c.2, s.20; R.S.S. 1978,
c.A-10, s.40

Security interest of dealer

41(1) Repealed. 1980-81, c.44, s.4.

(2) An implement dealer shall state in the contract for sale whether he has taken a security interest in the implement or whether the sale of the implement is for cash.

(3) The dealer may agree to take from the purchaser his promissory note or notes for the purchase price or the balance of the purchase price of an implement and if the dealer does so the clause of the contract governing payment of the purchase price shall be altered so that it refers to promissory note or notes instead of the taking of a security interest and, in the case of a contract for sale of a new implement in the form prescribed in the regulations, no commitment of the purchaser found under the heading "Purchaser's Commitments" in the contract shall apply and such commitments shall be deemed to be deleted from the contract.

- (4) Where a dealer agrees to take a promissory note or notes under subsection (3):
- (a) no security interest shall be taken or given in respect of the implement purchased and, subject to subsection (3), when the contract in the form prescribed in the regulations governing payment of the purchase price is duly completed it shall constitute the entire contract between the parties;
 - (b) if the dealer or his assignee takes action and recovers judgment against the purchaser on the promissory note or notes, or for the price or balance of the price of the implement, subsection 70(1) of *The Saskatchewan Farm Security Act* does not apply.

1973, c.1, s.5; 1976, c.2, s.12; R.S.S. 1978,
c.A-10, s.41; 1979-80, c.9, s.3; 1980-81, c.44, s.4;
1988-89, c.52, s.2.

42 Repealed. 1979-80, c.9, s.4.

43 Repealed. 1979-80, c.9, s.5.

Dealer deemed to be agent of assignee

43.1(1) Subject to subsection (2), every dealer who assigns a security interest taken with respect to any sale of an implement is deemed to be the agent of the assignee of the security interest for the purpose of receiving any payment with respect to the sale of the implement.

(2) The dealer continues to be deemed to be the agent of the assignee unless and until written notice of the assignment of the security interest is given by the assignee to the purchaser of the implement.

(3) A written notice mentioned in subsection (2) is required:

- (a) to be contained in a document separate and apart from the instrument or document containing the security interest;
- (b) to be sent by registered mail separate and apart from any other document;
- (c) to state that the dealer is not the agent of the assignee and has no authority to receive any payment on account of the security interest; and
- (d) to direct the purchaser to make all further payments owing on the account of the purchase price of the implement to the assignee or to any other person that may be directed by the assignee.

(4) Notwithstanding subsection (2), where, after giving notice pursuant to that subsection, an assignee accepts any payment from a dealer with respect to a sale of an implement referred to in the notice, the dealer continues to be deemed to be the agent of the assignee from the date of receiving such payment and until the assignee gives a further written notice in accordance with subsection (2).

(5) The provisions of this section are in addition to and not in substitution for:

- (a) the rules of common law and of equity;
- (b) section 41 of *The Personal Property Security Act, 1993*; and
- (c) *The Choses in Action Act*.

1980-81, c.44, s.5; 1993, c.P-6.2, s.76.

Liability of original dealer

44 Where the purchaser of an implement, other than a second-hand or rebuilt implement, purchases the implement from a dealer who is not the manufacturer thereof, the manufacturer which sold the implement to the dealer and the distributor representing that manufacturer are liable to the purchaser to observe, keep and perform the warranties set forth in this Act; and the purchaser may maintain an action against any such manufacturer or distributor, as well as against the dealer, or against any one or more of them, for any breach of any of those warranties.

1968, c.1, s.24; 1976, c.2, ss.13 & 20; R.S.S.
1978, c.A-10, s.44.

Purchaser's right to reject

45 Where a purchaser purchases several implements at the same time from the same dealer, whether by one or several orders, and it is reasonably apparent that the several implements were intended to form part of the one outfit, then and in every such case the purchaser may, upon the happening of any event that under this Act and the forms prescribed in the regulations would give him the right to reject any one of those implements, reject any one or all of those implements.

1968, c.1, s.25; 1976, c.2, ss.14 & 20; R.S.S.
1978, c.A-10, s.45.

Contracts to comply with Act

46(1) No contract, order or security made or taken in connection with the sale of an implement shall contain any statement to the effect that the dealer is not responsible for the representations of his agent or contain any other statement limiting or modifying the legal liability of the dealer or distributor, including limiting or modifying the liability of the dealer or distributor for incidental or consequential damages resulting from a breach of warranty, as provided in this Act or in the forms prescribed in the regulations; and the insertion of any such statement has no effect upon the contract, order or security.

(2) A breach of this section renders the contract, order or security void at the option of the purchaser.

1968, c.1, s.26; 1976, c.2, ss.15 & 20; R.S.S.
1978, c.A-10, s.46; 1979-80, c.10, s.16.

Effect of clerical errors in contract

47 No error of a clerical nature or in an immaterial or nonessential part of a written contract under this Act invalidates the contract, unless in the opinion of the court or judge before whom a question relating thereto is tried the error has actually misled some person whose interests are affected by the contract.

1968, c.1, s.27; R.S.S. 1978, c.A-10, s.47.

Contract is entire contract

48(1) Subject to subsection (2) and to the other provisions of this Act, where a contract made in the forms prescribed in the regulations is duly completed, that contract is the entire contract between the parties.

(2) *The Sale of Goods Act* and the rules of common law and of equity continue to apply to contracts for the sale of implements and parts.

1979-80, c.10, s.17.

Validity of forms

49 The words in parenthesis in the forms prescribed in the regulations are merely directory and need not be printed or written in any contract made pursuant to this Act; and where any paragraph of the forms governed by a parenthesis is inappropriate to any particular contract according to the directions contained in the parenthesis, the paragraph need not be printed or written in the contract.

1968, c.1, s.29; 1976, c.2, s.17; R.S.S. 1978, c.A-10, s.49.

Supplier to purchaser dealer's unused stock if agreement ends

50(1) In this section and in section 51:

- (a) **“agreement”** means a written or oral agreement between a dealer and a supplier that is in force on or after December 1, 1969;
 - (b) **“invoice price”**, with respect to an implement, includes:
 - (i) costs associated with any preparation work that a supplier requires the dealer to undertake with respect to the implement before the implement is delivered to a purchaser; and
 - (ii) the costs paid by the dealer to transport the implement from the point of manufacture of the implement to the dealer's place of business;
 - (c) **“notice to purchase”** means the written notice to purchase mentioned in subsection (2);
 - (d) **“supplier”** means a distributor or a manufacturer.
- (2) Within 90 days after the day an agreement expires or is terminated by the dealer or the supplier for any reason, a dealer may give to the supplier a written notice to purchase containing a request by the dealer that the supplier purchase:
- (a) all unused implements, unused parts, signs, computer hardware and computer software obtained from or required by the supplier; and
 - (b) any special tools and service manuals obtained from or required by the supplier.
- (3) If a notice to purchase is given to the supplier in accordance with subsection (2), the supplier shall, subject to this Act and the regulations, purchase from the dealer:
- (a) all unused implements obtained by the dealer from the supplier;
 - (b) all unused parts purchased as parts by the dealer from the supplier;

c. A-10

AGRICULTURAL IMPLEMENTS

- (c) all signs carrying the supplier's current logo obtained from or required by the supplier within five years before the expiration or termination of the agreement;
 - (d) all computer hardware that:
 - (i) was purchased from the supplier or required by the supplier within two years before the expiration or termination of the agreement; and
 - (ii) was used exclusively to do business with the supplier;
 - (e) all computer software that:
 - (i) was created and owned by the supplier;
 - (ii) was sold directly to the dealer within two years before the expiration or termination of the agreement; and
 - (iii) was used exclusively to do business with the supplier;
 - (f) all service manuals that the dealer was required to purchase from the supplier within the two years before the expiration or termination of the agreement; and
 - (g) all special tools that the supplier required the dealer to purchase within the two years before the expiration or termination of the agreement and that are used exclusively for servicing the supplier's products.
- (4) No dealer shall fail to offer for sale to the supplier all the service manuals and special tools that the supplier is required to purchase pursuant to subsection (3).
- (5) If the supplier is required to purchase unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools pursuant to subsection (3), the supplier shall pay to the dealer:
- (a) for each unused implement as listed in the original invoice of that implement, an amount equal to 100% of the invoice price less any discounts allowed by the supplier;
 - (b) for each unused part, an amount equal to:
 - (i) 90% of the current net price, if the agreement expired or was terminated by the dealer; or
 - (ii) 100% of the current net price, if the agreement was terminated by the supplier;
 - (c) for signs, computer hardware and computer software, an amount equal to 50% of the original cost to the dealer; and
 - (d) for special tools and service manuals, an amount equal to:
 - (i) subject to subclause (ii), 50% of the original cost to the dealer for those tools and manuals;
 - (ii) in the case of new, unused tools and manuals, 100% of the original cost to the dealer.

(6) In addition to the amounts mentioned in subsection (5), the supplier shall pay interest on any amount payable pursuant to clauses (5)(a) to (d) at the rate specified by the minister from time to time for the purposes of this section in relation to amounts payable by the supplier to the dealer, whether or not the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools are being financed by a third party finance company.

(7) For the purposes of subsection (6), the minister may, by order, specify a rate of interest and, if the minister does so, shall:

- (a) cause a copy of the order to be published in the Gazette; and
- (b) cause notice of the order to be brought to the attention of the dealers, suppliers and the public in any manner that the minister considers to be appropriate.

(8) Interest payable pursuant to subsection (6) is to be calculated commencing the 61st day following the day the amount becomes due and owing.

(9) Subject to subsection (10), the amount payable by a supplier for unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools becomes due and owing on the earlier of:

- (a) the 91st day after the supplier received the notice to purchase from the dealer; and
- (b) the 30th day after the supplier removes all the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools from the possession of the dealer.

(10) The due date for payment pursuant to subsection (9) and the 91-day period pursuant to clause (9)(a) or (16)(b) may be amended:

- (a) by agreement between supplier and dealer; or
- (b) by an order of the Court of Queen's Bench.

(11) For the purposes of clause (10)(b), a supplier may apply for an order by notice of motion returnable not later than 120 days after the day on which the supplier received the notice to purchase.

(12) On an application for the purposes of subsection (11), the Court of Queen's Bench may grant the order requested if it is satisfied that the supplier's failure to remove all unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools from the possession of the dealer was caused by circumstances beyond the supplier's control or by the fault of the dealer.

(13) In addition to any other remedy available:

- (a) a dealer may recover an amount owing to the dealer pursuant to this section by a supplier by deducting that amount from any other amount the dealer owes the supplier; and
- (b) a supplier may recover an amount owing to the supplier by a dealer by deducting that amount from any other amount owed to the dealer pursuant to this section.

c. A-10

AGRICULTURAL IMPLEMENTS

- (14) A supplier is not required to purchase any of the following:
- (a) an unused part that is not clearly identified by its part number;
 - (b) an unused part that:
 - (i) is not listed in the supplier's current price list; and
 - (ii) is for use in an implement that was manufactured more than 10 years before the expiry or termination of the agreement;
 - (c) an unused part specially ordered by the dealer from the supplier on the understanding that the part was not returnable by the dealer;
 - (d) unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools that are subject to a lien, charge, encumbrance or mortgage in favour of a third party in an amount in excess of the amount that the supplier would be required to pay to the dealer pursuant to this section;
 - (e) unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools that have not been adequately prepared for shipment in accordance with clause (18)(b) within the 91-day period mentioned in subclause (16)(b)(i) or in any extension of that period granted pursuant to subsection (10).
- (15) A supplier may deduct from the amount the supplier is required to pay to the dealer pursuant to this section:
- (a) an amount equal to the cost to the supplier of supplying and installing a replacement for any missing or damaged part at the current net price, including a reasonable charge for necessary labour for the installation of the part; and
 - (b) the amount of any liens, charges, encumbrances or mortgages in favour of third parties to which the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools are subject.
- (16) The dealer is responsible for the care and custody of the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools that the supplier is required to purchase until the earlier of:
- (a) the day the supplier removes them from the dealer's possession at the dealer's place of business; and
 - (b) the later of:
 - (i) the 91st day after the day the supplier receives the notice to purchase from the dealer; and
 - (ii) if the period in subclause (i) has been extended pursuant to subsection (10), the day the extension expires.

(17) After the expiry of the period mentioned in subsection (16), the supplier is responsible for the care and custody of the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools mentioned in that subsection.

(18) A dealer is responsible for doing the acts necessary:

(a) to adequately prepare each unused implement so that it is acceptable by a carrier for shipment from the dealer's place of business; and

(b) to adequately package, crate or otherwise prepare all unused parts, signs, computer hardware, computer software, service manuals and special tools so that they are acceptable by a carrier for shipment from the dealer's place of business.

(19) A supplier shall pay for transportation costs for the removal of the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools from the possession of a dealer.

(20) If the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools are not removed within the 91-day period mentioned in subclause (16)(b)(i), the supplier shall pay to the dealer reasonable storage costs until the unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools are removed.

(21) Notwithstanding subsection (20), if the 91-day period mentioned in subclause (16)(b)(i) has been extended, the date for removal of unused implements, unused parts, signs, computer hardware, computer software, service manuals and special tools is extended to the date the extension expires.

(22) This section applies to a supplier and a dealer notwithstanding any provision to the contrary in an agreement or any other contract or arrangement between the supplier and the dealer, and, if a provision of the agreement is more advantageous to the dealer than the provision of this section pertaining to the same subject-matter, the more advantageous provision of the agreement applies.

(23) Any waiver or release given by a dealer of the dealer's rights pursuant to this section is void.

2003, c.5, s.26.

Supplier to furnish information to minister

51 A supplier shall, upon the request of the minister, furnish the minister in accordance with the request, with:

(a) a copy of each or any franchise or other agreement in effect between a supplier and a dealer;

(b) particulars of each or any unwritten agreement with any or all dealers;

(c) a copy of a written agreement or particulars of an unwritten agreement with any or all dealers with respect to the return of implements or parts to the supplier.

1970, c.2, s.4; 1976, c.2, s.20; R.S.S. 1978,
c.A-10, s.51.

Expenditures

52 Sums required for the purposes of this Act may be paid from moneys appropriated by the Legislature for such purposes.

1968, c.1, s.30; R.S.S. 1978, c.A-10, s.52.

Regulations

53 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make such regulations as are ancillary thereto and are not inconsistent therewith; and every regulation made under and in accordance with the authority granted by this section has the force of law; and without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) prescribing the form and contents of applications for licences to be issued to dealers under this Act and for renewals of such licences, the form of licences, the conditions to which licences may be subject, their duration, and the fees payable for licences and renewals of licences;
- (b) prescribing the standards to be met by manufacturers, distributors and dealers with respect to repair parts, stocks and service facilities;
- (c) exempting any implement or class of implement from all or any provisions of this Act or the regulations;
- (c.1) prescribing institutions as financial institutions for the purposes of clause 2(e);
- (c.2) prescribing the percentage of amount owing, as defined in section 14, as a penalty for the purposes of subsection 14(2);
- (d) prescribing the manner of giving notice and the persons to whom notice shall be given with respect to unlicensed dealers pursuant to subsection 26(8);
- (e) relating to any matter mentioned in section 50 or 51;
- (f) prescribing the manner of giving notice to farmers, dealers and distributors respecting the hearings of applications for compensation pursuant to section 10;
- (g) authorizing and governing the investigation by the board of claims for compensation made to the board;
- (h) authorizing and governing the auditing of the books and records of distributors;
- (i) relating to any other matter respecting the operations and functions of the board;
- (i.1) prescribing further functions that the board may carry out and the manner in which those functions are to be carried out;

- (j) prescribing the form and content of sales contracts mentioned in section 35 and, without limiting the generality of the foregoing, prescribing the terms, conditions, commitments, warranties and use of such contracts;
- (k) defining any word or expression used in this Act but not defined in this Act;
- (l) defining normal rental rates of implements under subsection (10) of section 33.

1968, c.1, s.31; 1970, c.2, s.5; 1973, c.1, s.6;
1976, c.2, ss.19 & 20; R.S.S. 1978, c.A-10, s.53;
1979, c.69, s.3; 2003, c.5, s.27.

Limitation on prosecution

54 A prosecution for an offence against this Act may be commenced at any time within twenty-four months from the date of the commission of the alleged offence.

1979-80, c.10, s.18.

