

The Direct Sellers Act

being

[Chapter D-28](#) of the *Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan*, 1983, c.77; 1984-85-86, c.16; 1986, c.29; 1993, c.17; 1996, c.3; 2000, c.53; and 2001, c.46.

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.

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CHAPTER D-28

An Act respecting Direct Sellers

SHORT TITLE

Short title

1 This Act may be cited as *The Direct Sellers Act*.

INTERPRETATION

Interpretation

2(1) In this Act:

- (a) **“associate”** means a salesman or a person, including an officer or a director, who provides assistance related to the management of the business of the direct seller;
- (a.1) **“direct sale”** means a sale by a direct seller acting in the course of his or her business as a direct seller;
- (b) **“direct sales contract”** means an agreement, whether verbal or in writing, for the direct sale of goods or services;
- (b.1) **“direct sales contractor”** means a vendor who sells, offers for sale or solicits orders for:
 - (i) constructing, altering, renovating, maintaining, repairing, adding to or improving a building that is used or is to be used as a house by the owner, occupier or person in control of it; or
 - (ii) altering, maintaining or improving real property to be used in connection with a house;
- (c) **“direct seller”** means a person who:
 - (i) goes from house to house selling or offering for sale, or soliciting orders for the future delivery of, goods or services;
 - (ii) by telephone offers for sale or solicits orders for the future delivery of goods or services; or
 - (iii) does both of the things mentioned in subclauses (i) and (ii);
- (c.1) **“firm”** means:
 - (i) a person who is sole proprietor of a business and who uses as his or her business name a name other than his or her own or uses his or her own name with the addition of some other word or phrase; or
 - (ii) persons who are associated as partners in a business;

- (d) **“goods”** includes any articles, commodities, substances or things and any agreement that entitles the holder thereof to purchase or obtain goods;
- (e) **“house”** includes:
- (i) any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto; and
 - (ii) any building on a farm and any land appurtenant to the farm;
- (f) **“minister”** means the member of the Executive Council to whom for the time being is assigned the administration of this Act;
- (g) **“purchaser”** means the purchaser under a direct sales contract;
- (h) **“registrar”** means a person appointed pursuant to section 23.1.
- (i) **“salesman”** means a person who:
- (i) goes from house to house selling or offering for sale, or soliciting orders for the future delivery of, goods or services;
 - (ii) by telephone offers for sale or solicits orders for the future delivery of goods or services; or
 - (iii) does both of the things mentioned in subclauses (i) and (ii);
- for or on behalf of a vendor or the person who would be a vendor if a direct sales contract were completed;
- (j) **“services”** includes any agreement:
- (i) to install or apply goods, whether or not the goods become part of any real property;
 - (ii) to perform work, labour or service of any kind;
 - (iii) that entitles the holder thereof to purchase or obtain services;
- (k) **“vendor”** means the vendor under a direct sales contract.
- (2) This Act does not apply to an isolated direct sales contract entered into by a vendor by or for his own account where the contract:
- (a) is not made in the course of continuous and successive transactions of a like nature; and
 - (b) is not made by a person whose usual business is selling or offering for sale or soliciting orders for the future delivery of the goods or services that are the subject of the direct sales contract.

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DIRECT SELLING

Certain persons deemed to be carrying on business of direct selling and subject to Act**3** Any person:

- (a) acting as a direct seller; or
- (b) acting as a vendor under a direct sales contract;

shall be deemed to be carrying on the business of direct selling and shall be subject to and shall comply with this Act.

R.S.S. 1978, c.D-28, s.3; 1984-85-86, c.16, s.4.

LICENCES

Carrying on business without licence prohibited

4(1) No person shall carry on the business of direct selling in Saskatchewan unless:

- (a) in the case of a vendor, the person holds a licence as a vendor; or
- (b) in the case of a salesman, the person holds:
 - (i) a licence as a salesman; or
 - (ii) where, pursuant to the regulations, the salesman is not required to be licensed, an identification card provided pursuant to section 10.1.

(2) A person shall be deemed not to be carrying on the business of direct selling and is not required to be licensed under this Act if he is:

- (a) a person selling newspapers, water, propane gas or fuel petroleum products;
- (b) a person selling food or food products that, at the time of delivery, are in an unfrozen and perishable state;
- (b.1) a person selling lumber or firewood if the person or the person's employer has a place of business in the municipality in which the direct sale takes place;
- (c) a person selling feed grain, feed supplements, fertilizer or weed spray if he resides or has a place of business in Saskatchewan;
- (d) a person selling the following services:
 - (i) the treatment of feed, seed grain or growing crops;
 - (ii) the breeding, care or treatment of live stock; or
 - (iii) custom tilling, seeding or harvesting;
- (e) a person selling nursery stock grown in Saskatchewan;
- (f) a farmer selling products raised in Saskatchewan on his own farm;
- (g) **Repealed.** 1996, c.3, s.4.

(h) a merchant having a recognized retail store in Saskatchewan and selling goods or services of a sort or class ordinarily sold at that store;

(i) a *bona fide* servant or employee of:

(i) the farmer mentioned in clause (f);

(ii) the person mentioned in clause (g); or

(iii) the merchant mentioned in clause (h);

who has the written authority of that farmer, person or merchant, as the case may be, to sell;

(j) **Repealed.** 1996, c.3, s.4.

(k) an individual selling goods or services on behalf of an organization or corporation having objects of a benevolent, religious, charitable, philanthropic, educational, agricultural, scientific, artistic, social, political, professional, fraternal, sporting, athletic or other useful nature and not formed for gain;

(l) a person required to be licensed or registered pursuant to a federal or provincial statute, specified in the regulations, that governs the business of selling a product or service;

(m) a member of a class of persons that may be exempted in the regulations; or

(n) a person who participates in a category of sales that may be exempted in the regulations.

(3) For the purposes of clause 2(h):

(a) the expression “**recognized retail store**” does not include a dwelling, mail-order office, display room, office, repair or service shop, warehouse, studio or any other place of a like nature notwithstanding that the owner or occupant thereof is or may be assessed by the municipality for business tax purposes in respect of such place; and

(b) the word “**merchant**” does not include a person who has a recognized retail store if more than fifty per cent of the goods or services sold by him in Saskatchewan are sold by direct sale.

R.S.S. 1978, c.D-28, s.4; 1993, c.17, s.8; 1996, c.3, s.4.

Licences for vendors and salesmen

5(1) The registrar may grant licences under this Act to vendors and salesmen.

(2) The holder of a licence as a vendor may carry on the business of direct selling in every respect except that he may not act as a salesman of another vendor.

(3) The holder of a licence as a salesman may only act as a direct seller for or on behalf of the vendor whose name is specified in his licence.

(4) No vendor or salesman shall in the course of the business of direct selling, sell or offer for sale, or solicit orders for the future delivery of, goods or services of any sort or class other than those specified in his licence.

R.S.S. 1978, c.D-28, s.5.

Direct sales contracts

- 6(1) A direct sales contract is to be in writing where required by this Act or the regulations.
- (2) A copy of the direct sales contract is to be supplied to the purchaser at the time it is made.
- (3) A written direct sales contract is to include:
 - (a) a statement of cancellation rights that conforms with the requirements in the regulations; and
 - (b) any information that may be required in the regulations.
- (4) Where a contract is not required to be in writing, the direct seller shall notify the purchaser of cancellation rights in a form and manner prescribed in the regulations.
- (5) In addition to any applicable requirements in *The Builders' Lien Act*, where a direct sales contractor enters into a direct sales contract where any part of the contract price is paid for before all the goods or services agreed on in the contract are provided, the direct sales contractor shall not require the purchaser to pay more than 15% of the total amount of the contract before the 10-day cancellation period mentioned in section 22 expires.
- (6) In addition to the requirements in the regulations respecting the form and content of a written direct sales contract, a direct sales contractor shall include in the written contract:
 - (a) a detailed description of the quality and type of materials to be used under the contract; and
 - (b) the services and work to be carried out under the contract.
- (7) Except as provided in the regulations, a direct seller shall not give or offer to give directly or indirectly any gift, premium, prize or other benefit of any kind to a purchaser or prospective purchaser for assistance in furthering the sale to another person of any goods or services if that gift, premium, prize or other benefit is contingent on a sale being made to the other person.

1996, c.3, s.5.

Firm or partnership

- 7(1) A firm may apply for and obtain a licence as a vendor in the name under which it is registered pursuant to *The Business Names Registration Act*, and no firm shall carry on business as a vendor under a name other than the name shown in its licence.
- (2) Every firm, in its application for a licence, shall state the firm name and:
 - (a) if the firm is a sole proprietor, the name of the sole proprietor; or
 - (b) if the firm is a partnership, the names of the partners.
- (3) The licence, if granted to the firm, is deemed to be issued in the name of the sole proprietor, or in the names of the partners, as the person or persons carrying on business in the firm name.

(4) Any change in the membership of a firm or in the name of the firm is deemed to create a new firm and:

(a) any existing licence is terminated where the registrar does not receive prior written notice of the change, and the firm must apply for a new licence; and

(b) any existing licence is amended where the registrar receives prior written notice of the change, and the firm must pay the fee for an amended licence.

(5) Where the registration of the firm's business name pursuant to *The Business Names Registration Act* has lapsed or for some other reason been removed from the record of registrations, the firm's licence pursuant to this Act is suspended.

1996, c.3, s.6.

Corporations

7.1(1) A corporation may apply for and obtain a licence as a vendor in its corporate name.

(2) A corporation, in its application, shall provide the names of the directors of the corporation.

(3) Where the registration of the corporation pursuant to *The Business Corporations Act* has lapsed or has for some other reason been struck from the register of corporations, the corporation's licence pursuant to this Act is suspended.

(4) Where there is a change in the corporate name:

(a) any existing licence is terminated where the registrar does not receive prior written notice of the change, and the corporation must apply for a new licence; and

(b) any existing licence is amended where the registrar receives prior written notice of the change, and the corporation must pay the fee for an amended licence.

1996, c.3, s.6.

Application for licence

8(1) Every applicant for a licence shall apply to the registrar on a form provided by the registrar and shall include with the application:

(a) any information that may be required by the regulations; and

(b) the fee prescribed in the regulations;

(2) Every applicant or person acting on behalf of an applicant may be required by the registrar to verify by affidavit the statements made by him in the application.

R.S.S. 1978, c.D-28, s.8; 1996, c.3, s.7.

Address for service

9 Every applicant for a licence shall state in the application an address for service in Saskatchewan, and any notice given pursuant to this Act or the regulations shall for all purposes be deemed to be sufficiently served if delivered or sent by registered mail to the licensee at the address for service stated in his application for a licence unless the licensee has notified the registrar in writing of a change of address for service under section 20 in which case any such notice shall be sufficiently served if delivered or sent by registered mail to the licensee at the latest address for service of which the registrar has been so notified.

R.S.S. 1978, c.D-28, s.9.

Licence for salesman

10(1) Every application for a licence as a salesman shall be accompanied by a notice given by a licensed vendor stating that the applicant, if granted a licence, is authorized to act as a salesman representing that vendor.

(2) A licence issued to a salesman shall specify as the principal of the licensee the vendor who has given the notice accompanying the application for that licence pursuant to subsection (1).

R.S.S. 1978, c.D-28, s.10.

Identification card

10.1(1) The vendor shall provide an identification card to any salesman acting for or on behalf of the vendor where, pursuant to the regulations, that salesman is not required to be licensed.

(2) The identification card is to contain:

- (a) the salesman's name;
- (b) the vendor's name and address;
- (c) the signature of the vendor or, if the vendor is a corporation, of an officer of the corporation; and
- (d) any information that may be required by the regulations.

(3) A person who has received an identification card from a vendor and is no longer authorized to make direct sales on behalf of that vendor shall surrender the card to:

- (a) the vendor; or
- (b) if the person that held the vendor's licence no longer holds that licence, to the registrar.

1996, c.3, s.8.

Salesman authorized

11 A salesman is authorized by the vendor specified in the salesman's identification card or licence, as the case may be, to act for or on behalf of that vendor.

1996, c.3, s.9.

Vendor to notify registrar of cessation of representation

12(1) Where a salesman ceases to represent a vendor, that vendor shall forthwith give notice in writing to the registrar that that salesman has ceased to represent him and the receipt of such notice by the registrar shall operate as a cancellation of the licence of the salesman.

(2) A vendor who fails to give the notice mentioned in subsection (1) within five days after the salesman has ceased to represent him is guilty of an offence.

R.S.S. 1978, c.D-28, s.12.

Transfer of licence prohibited

13(1) The transfer of the licence of a salesman from one vendor to another is prohibited.

(2) Where a salesman whose licence is cancelled is appointed by another vendor, or is reappointed by the vendor with whom he was previously licensed, a new application shall be made to the registrar for a licence.

R.S.S. 1978, c.D-28, s.13.

Registrar may grant or renew licence

14(1) The registrar may grant a licence to an applicant or renew a licence where the registrar is satisfied that the applicant has complied with this Act and the regulations.

(2) The registrar may refuse to grant or renew a licence where:

(a) the applicant or the applicant's associate cannot reasonably be expected to be financially responsible in the conduct of the business of direct selling;

(b) it is contrary to the public interest for the applicant to carry on the business of a direct seller based on the past conduct of the applicant or the applicant's associate;

(c) the applicant or the applicant's associate has contravened this Act, the regulations or a term, condition or restriction to which a licence is subject;

(d) any security respecting the licence has ceased to be effective for the purpose for which it was given and has not been replaced with security that is the equivalent of the original security; or

(e) the applicant's registration pursuant to *The Business Corporations Act* or *The Business Names Registration Act* has lapsed.

1996, c.3, s.10.

Terms, conditions and restrictions may be prescribed

15(1) The registrar may grant a licence subject to such terms, conditions and restrictions as he considers necessary.

(2) Where a licence has been granted, the registrar may, by notice to the licensee:

(a) make the licence subject to such terms, conditions and restrictions; or

(b) vary, add to or revoke any terms, conditions and restrictions to which the licence is subject;

as the registrar considers necessary.

(3) Every licensee shall comply with the terms, conditions and restrictions to which his licence is subject.

R.S.S. 1978, c.D-28, s.15.

Expiration of licence

16 Every licence shall expire one year after the day on which it is issued unless previously suspended or cancelled.

R.S.S. 1978, c.D-28, s.16; 1986, c.29, s.5; 1996, c.3, s.11.

Suspension or cancellation of licence

17(1) The registrar may suspend or cancel a licence on any ground on which the registrar might have refused to grant or renew the licence or where he or she is satisfied that:

- (a) the licensee or associate of the licensee has violated any provision of this Act or has failed to comply with any of the terms, conditions or restrictions to which the licence is subject;
- (b) the licensee has made a material misstatement in the application for the licence or in any of the information or material submitted by the licensee to the registrar pursuant to section 18;
- (c) the licensee or associate of the licensee has been guilty of misrepresentation, fraud or dishonesty; or
- (d) the licensee or associate of the licensee has demonstrated his or her incompetency or untrustworthiness to carry on the business with respect to which the licence was granted.

(2) Where the licence of a vendor is suspended or cancelled, the licences of all salesmen of the vendor shall likewise be automatically suspended or cancelled, as the case may be.

R.S.S. 1978, c.D-28, s.17; 1996, c.3, s.12.

Registrar may require further information

18 The registrar may at any time require further information or material to be submitted within a specified time by an applicant for a licence or a licensee and may require verification by affidavit or otherwise of any information or material then or previously submitted.

R.S.S. 1978, c.D-28, s.18.

Bond

19(1) The registrar may require any applicant for a licence or any licensee to deliver to him within a specified time a bond, or any other form of financial security that may be acceptable to the registrar, in such form as he may prescribe and in such amount as he may require.

(2) Notwithstanding that Her Majesty in right of Saskatchewan has not suffered any loss or damages, every bond delivered to the registrar under subsection (1) shall be construed as being a penal bond and where any such bond is forfeited pursuant to subsection (3), the amount due and owing as a debt to Her Majesty in right of Saskatchewan by the person bound thereby shall be determined as if Her Majesty suffered such loss or damages as would entitle Her Majesty to be indemnified to the maximum amount of liability prescribed by the bond.

(3) Every bond delivered under subsection (1) shall be forfeited upon demand of the registrar where:

(a) the person in respect of whose conduct the bond is conditioned or any representative, agent or salesman of that person has been convicted of:

(i) an offence under this Act or any regulation;

(ii) an offence involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the *Criminal Code*; or

(b) judgment in respect of a claim arising out of a direct sales contract has been given against the person in respect of whose conduct the bond is conditioned or against any representative, agent or salesman of that person; or

(c) the person in respect of whose conduct the bond is conditioned commits an act of bankruptcy, whether or not proceedings have been taken under the *Bankruptcy Act (Canada)*; or

(d) a decision has been rendered by the registrar in writing stating in effect that after consideration and investigation of a complaint, he is satisfied that the person in respect of whose conduct the bond is conditioned or any representative, agent or salesman of that person:

(i) has violated any provision of this Act or has failed to comply with any of the terms, conditions or restrictions to which his licence is subject or is in breach of contract; and

(ii) has departed from Saskatchewan, or being out of Saskatchewan remains out of Saskatchewan, or departs from his dwelling house or otherwise absents himself, or in the case of a corporation, the name thereof has been struck off the register of companies;

and such conviction, judgment, order or decision has become final by reason of lapse of time or of having been confirmed by the highest court to which any appeal may be taken.

(4) Where a bond secured by the deposit of collateral security with the registrar is forfeited under subsection (3), the registrar may sell the collateral security at the current market price.

(5) The registrar may pay any money recovered under a forfeited bond or realized from the sale of any collateral security to:

(a) the local registrar of the Court of Queen's Bench in trust for those persons who may become judgment creditors of the person named in the bond for claims arising out of direct sales contracts on any terms the registrar considers appropriate;

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- (b) any trustee, custodian, interim receiver, receiver or liquidator of the person named in the bond on any terms the registrar considers appropriate; or
 - (c) any person that the registrar considers entitled to the money for a claim arising out of a direct sales contract with the person named in the bond or any representative, agent or salesman of that person.
- (6) The registrar shall pay any money not paid pursuant to subsection (5) to the surety or obligor under the bond after the payment of any expenditures incurred by the registrar in connection with the forfeiture of the bond and the determination and settlement of valid claims.

R.S.S. 1978, c. D-28, s. 19; 1996, c.3, s.13; 2000, c.53, s.4.

Vendors to notify registrar

20 Every licensed vendor shall give the registrar prior written notice of any of the following:

- (a) a change in the address for service;
- (b) a change in membership, if the vendor is a firm;
- (c) a change in its business name, if the vendor is a firm;
- (d) a change in its officers or directors, if the vendor is a corporation;
- (e) an amalgamation to which it has been a party, if the vendor is a corporation.

1996, c.3, s.14.

Appeal

21(1) A person who is dissatisfied with a decision of the registrar under section 14, 15, 17 or 19 may, within thirty days from the date of the decision, appeal to a judge of the Court of Queen's Bench who may, upon hearing the appeal, make such order:

- (a) respecting the granting of a licence;
- (b) respecting the terms, conditions and restrictions to which the licence is to be subject;
- (c) setting aside the suspension or cancellation of the licence;
- (d) for further inquiry by the registrar into the facts of the case;
- (e) respecting costs;

as the judge deems just.

(2) The appeal shall be by notice of motion and a copy thereof shall be served upon the registrar within the said thirty days and not less than ten days before the day on which the motion is returnable.

(3) Upon receipt of the copy of the notice of motion the registrar shall forward to the appropriate local registrar a certified copy of all documents in the possession of the registrar relating to the decision from which the appeal is being taken.

- (4) There shall be no further appeal.

R.S.S. 1978, c.D-28, s.21.

RESCISSION OF DIRECT SALES CONTRACTS

Direct sales contracts rescinded in certain cases

22(1) A direct sales contract is cancelled where:

- (a) the purchaser provides notice of cancellation to the vendor within 10 days after the day on which the purchaser receives a copy of the contract or, where a contract is not required, a statement of cancellation rights;
 - (b) the purchaser provides notice of cancellation to the vendor and the vendor or the vendor's salesman made the offer for sale or the order to purchase by means of a telephone call from outside Saskatchewan to a purchaser resident in Saskatchewan;
 - (c) the purchaser provides notice of cancellation to the vendor within one year after the day on which the purchaser entered into the contract and:
 - (i) the vendor or the salesman of the vendor was not in compliance with the licensing requirements of this Act at the time the purchaser entered into the contract unless:
 - (A) pursuant to the regulations, the salesman is not required to be licensed; or
 - (B) the regulations provide that the non-compliance does not result in cancellation pursuant to this clause;
 - (ii) the goods or services to be supplied under the contract are not supplied to the purchaser within 30 days after the supply date specified in the contract;
 - (iii) if a written contract is required, the contract does not contain the information required pursuant to this Act or the regulations; or
 - (iv) if a written contract is not required, the statement of cancellation rights does not conform with the requirements of this Act or the regulations.
- (2) A notice of cancellation may be provided to the vendor in any manner that permits the purchaser to produce evidence that the purchaser cancelled the contract, including registered mail, fax or personal delivery to the vendor's last known address.
- (3) Where a method of sending or delivering the cancellation notice other than personal delivery is used, a notice of cancellation is deemed to be given when sent.
- (4) A notice given under subsection (1) shall have effect if, however expressed, it indicates the intention of the purchaser to terminate, cancel or withdraw from the contract.

(5) Where a purchaser accepts delivery of goods or supply of services after the 30-day period mentioned in subclause (1)(c)(ii) has expired, the purchaser is not entitled to cancel the contract pursuant to that subclause.

(6) Where it is shown to a court of competent jurisdiction that it is inequitable that subclause (1)(c)(ii) should apply, the court may make any order it considers appropriate.

R.S.S. 1978, c.D-28, s.22; 1986, c.29, s.6; 1996, c.3, s.15.

Contract for credit

22.1 Where, in connection with a direct sales contract, credit is extended or arranged by a direct seller:

- (a) the credit contract is conditional on the direct sales contract; and
- (b) where the direct sales contract is cancelled pursuant to section 22, the credit contract is cancelled.

1996, c.3, s.16.

Obligations on cancellation

23(1) Subject to subsection (6), where a direct sales contract is cancelled, the vendor, within 15 days of the cancellation, shall:

- (a) refund to the purchaser all money received under the contract; and
 - (b) return to the purchaser any trade-in or an amount equal to the value of the trade-in received under the contract.
- (2) The value of the trade-in mentioned in subsection (1) is the greater of:
- (a) the market value of the goods when taken in trade; and
 - (b) the price or value of the goods as set out in the direct sales contract.
- (3) In the case of a contract respecting goods, the purchaser, on receiving the refund, shall return the goods to the vendor.
- (4) Where a purchaser cannot return the goods to the vendor in substantially the same condition in which he or she received them because of an act or fault for which the purchaser is responsible, the purchaser may not cancel the contract.
- (5) Subject to subsection (6), a vendor is entitled to recover reasonable compensation for goods that cannot be returned or for services already provided.
- (6) Where the consideration for a contract does not exceed \$200, the vendor shall be entitled to, and may retain from any money received under the contract, an amount not exceeding \$50 that may be reasonably charged for the services rendered and for any of the goods that have deteriorated or been consumed if:
- (a) any services specified in the contract have been rendered at the premises of the purchaser prior to the purchaser providing notice of cancellation of the contract; or
 - (b) any perishable goods specified in the contract have been delivered and accepted by the purchaser.

1996, c.3, s.17.

ADMINISTRATION

Appointment of registrar

23.1 The minister may appoint a registrar and a deputy registrar to administer this Act and the regulations.

1996, c.3, s.18.

INVESTIGATIONS

Investigation by registrar

24(1) The registrar, or any person authorized by the registrar in writing, may investigate and inquire into any matter the registrar considers necessary respecting:

- (a) the administration of this Act or the regulations; or
- (b) a direct sale.

(2) For the purposes of an investigation pursuant to this section, the registrar or a person authorized by the registrar may inquire into and examine:

- (a) the business affairs of the person being investigated;
- (b) any records, negotiations, transactions, investigations, loans and borrowing of the person being investigated and any payments to, by or on behalf of, in relation to or in connection with the person; and
- (c) any property or assets of, or things owned, acquired or alienated in whole or in part by, the person being investigated or by any person acting on behalf of or as agent for the person being investigated.

(3) The person being investigated shall promptly provide detailed answers to all inquiries pertaining to the investigation pursuant to subsection (1) from the registrar or the person authorized by the registrar.

1996, c.3, s.19.

Production of books, etc.

25 The person making an investigation may at all reasonable times demand the production of and inspect all or any of the books, documents, papers, correspondence and records of the person in respect of whom the investigation is being made, and any person who has the custody, possession or control of any such books, documents, papers, correspondence or records shall produce them and permit the inspection thereof by the person making the investigation.

R.S.S. 1978, c.D-28, s.25.

DIRECT SELLERS

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Warrant

25.1 Where a provincial court judge is satisfied by information given under oath that there are reasonable grounds to believe that a contravention of this Act or the regulations has occurred and that there is evidence of the contravention to be found at the place to be searched, the judge may issue a warrant authorizing the person named in the warrant to enter the place named in the warrant and every part of that place to:

- (a) examine the place; and
- (b) search for and seize any records, designs, plans or other documents or other property that may constitute evidence of a contravention of this Act or the regulations.

1996, c.3, s.20.

Copies of documents and return

25.2 Where records, designs, plans or other documents are seized pursuant to clause 25.1(b), the person conducting the investigation:

- (a) may make copies of the records, designs, plans or other documents; and
- (b) shall return the records, designs, plans or other documents as soon as is practicable.

1996, c.3, s.20.

MISCELLANEOUS

Copy of form of contract to be delivered to purchaser

26 Every vendor or salesman of a vendor doing business with a purchaser shall, immediately upon the execution by that purchaser of a form of contract, deliver to the purchaser a true copy thereof.

R.S.S. 1978, c.D-28, s.26.

Restriction on enforcement of contract

27(1) No action shall be brought by a vendor against a purchaser for the enforcement of a direct sales contract unless the vendor and salesman were licensed under this Act at the time that the purchaser entered into the contract.

(2) Subsection (1) does not apply in a case where the vendor and the salesman are exempt from licensing under this Act.

(3) No action shall be brought by a vendor against a purchaser for the enforcement of a direct sales contract unless the vendor has provided the salesman, who, pursuant to the regulations, is not required to be licensed, with an identification card as required by this Act.

R.S.S. 1978, c.D-28, s.27; 1996, c.3, s.21.

c. D-28**DIRECT SELLERS****Employment, etc., of unlicensed person prohibited**

28 No person shall engage, employ, appoint, authorize or permit any other person to do any of the things in respect of which a licence is required under this Act unless such other person holds a licence under this Act.

R.S.S. 1978, c.D-28, s.28.

Holding out as licensed, etc., prohibited, exception

29(1) Subject to subsection (2), no person shall in any manner hold himself out as being licensed or bonded under this Act.

(2) A person licensed under this Act shall produce his licence for inspection when requested to do so by any person whom he has solicited.

(3) A salesman who, pursuant to the regulations, is not required to be licensed shall produce an identification card when requested to do so by any person whom the salesman has solicited.

R.S.S. 1978, c.D-28, s.29; 1996, c.3, s.22.

30 Repealed. 2001, c.46, s.56.

31 Repealed. 2001, c.46, s.56.

32 Repealed. 2001, c.46, s.56.

Certificate *prima facie* proof

33 A certificate under the hand of the registrar stating that on a specified day:

(a) a vendor, salesman or any other person named in the certificate was or was not licensed under this Act; or

(b) a licence was issued to a vendor or salesman; or

(c) the licence of a vendor or salesman was suspended, cancelled or reinstated;

is admissible in evidence as *prima facie* proof of the facts stated in the certificate.

R.S.S. 1978, c.D-28, s.33.

Agreements waiving provisions of Act null and void

34(1) Every agreement or bargain, verbal or written, express or implied, that any of the provisions of this Act or the regulations shall not apply or that any benefit or remedy provided by those provisions shall not be available, or which in any way limits or abrogates or in effect limits, modifies or abrogates any such benefit or remedy, is null, void and of no effect, and moneys paid under or by reason of any such agreement or bargain are recoverable in any court of competent jurisdiction.

(2) Notwithstanding subsection (1), a dispute between a vendor and a purchaser may be resolved through mediation or arbitration, and the court shall consider that resolution in any further action taken by the vendor or purchaser.

R.S.S. 1978, c.D-28, s.34; 1996, c.3, s.23.

Regulations

35 The Lieutenant Governor in Council may make regulations:

- (a) prescribing requirements respecting applicants for licences;
- (b) prescribing the fees payable for licences;
- (c) **Repealed.** 2001, c.46, s.56.
- (d) exempting any person or class of persons from any provision of this Act;
- (e) respecting direct sales contractors;
- (f) prescribing classes of direct sellers;
- (g) respecting the types of contracts or the classes of direct sales for which a written contract is required, including setting the minimum value at which a written contract is required;
- (h) respecting the form and content of identification cards vendors are to provide to salesmen;
- (i) respecting the form or content of direct sales contracts or any class of direct sales contracts;
- (j) respecting gifts, premiums, prizes or other benefits that may be given to or offered to a purchaser or prospective purchaser for assistance in furthering the sale to another person of any goods or services;
- (k) respecting the form and content of a statement of cancellation rights;
- (l) respecting codes of conduct for a direct seller or class of direct seller;
- (m) prescribing for the purposes of clause 22(1)(c) where non-compliance does not result in cancellation of a contract;
- (n) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (o) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

R.S.S. 1978, c.D-28, s.35; 1996, c.3, s.24; 2001, c.46, s.56.

OFFENCES AND PENALTIES**Offences and penalties**

36(1) Every person who contravenes a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction:

- (a) in the case of a person other than a corporation:
 - (i) for a first offence to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year or to both; and

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(ii) for a second or subsequent offence to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year or to both; and

(b) in the case of a corporation:

(i) for a first offence to a fine of not more than \$25,000; and

(ii) for a second or subsequent offence to a fine of not more than \$100,000.

(2) Any officer, director or agent of a corporation who directed, authorized or participated in an act or omission by a corporation that would constitute an offence by that corporation is guilty of that offence, whether or not the corporation has been prosecuted or convicted.

1996, c.3, s.25.

Restraining order

36.1 Where a person who is required to be licensed pursuant to this Act carries on the business of direct selling without being licensed or while that person's licence is suspended or cancelled, the registrar or any person authorized by the registrar may apply to the court for an order restraining the person and any salesman acting for or on behalf of the person from carrying on the business of direct selling until the person is licensed or the suspension is terminated.

1996, c.3, s.26.

Restitution

36.2(1) In addition to a sentence imposed pursuant to section 36, a court that convicts a defendant of an offence pursuant to this Act may, at the time sentence is imposed, order the defendant to pay to the aggrieved purchaser an amount not exceeding the monetary jurisdiction specified in *The Small Claims Act* as compensation for pecuniary loss suffered by the aggrieved purchaser as a result of the commission of the offence on application of:

(a) the aggrieved purchaser; or

(b) the Crown prosecutor on behalf of the aggrieved purchaser.

(2) Where the defendant does not pay the amount ordered within the time specified by the judge or, where no time is specified, within 30 days, the order may be enforced by the purchaser in the same manner as a certificate of judgment issued pursuant to *The Small Claims Act*.

(3) No application shall be made where the aggrieved purchaser has commenced a civil action against the defendant respecting the transaction that gave rise to the offence.

1996, c.3, s.26.

Burden of proof

37 Where in a prosecution under this Act the accused pleads that at the time of the act or omission complained of he was a person mentioned in subsection 4(2), the burden of proof thereof is on him.

R.S.S. 1978, c.D-28, s.37.

Evidence of carrying on of business

38 Where in a prosecution under this Act it is alleged that the accused carried on the business of direct selling without being the holder of a subsisting licence under this Act, evidence of one transaction is *prima facie* evidence that the accused carried on such business.

R.S.S. 1978, c.D-28, s.38.

Limitation of prosecution

39 No prosecution for an offence under this Act or the regulations shall be commenced after one year from the date of the alleged offence.

R.S.S. 1978, c.D-28, s.39.

CONFLICT WITH OTHER ACTS**Act to prevail**

40 Where the provisions of any other Act or of any bylaw passed under the authority of any other Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail.

R.S.S. 1978, c.D-28, s.40.

Editorial Appendix

NOTE: *The Statutes of Saskatchewan, 1996*, chapter 3, section 27 provides for transitional application of this Act, as follows:

Transitional

27(1) The provisions in this Act do not apply to a direct sales contract entered into prior to the coming into force of this Act.

(2) Where a licence was issued prior to the coming into force of section 11 of this Act:

(a) that licence expires in the year after the coming into force of section 11 of this Act on the anniversary of the day and month it was issued; and

(b) the registrar shall refund to that person on the expiration of the licence the amount R calculated as follows:

$$R = \frac{60 - M}{60} \times F$$

where:

M is the number of months that have transpired since the licence was issued; and

F is the licence fee that was paid.

1996, c.3, s.27.

