

# *The Factors Act*

*being*

Chapter F-1 of *The Revised Statutes of Saskatchewan, 1978*  
(effective February 26, 1979) as amended by the *Statutes of  
Saskatchewan, 1979-80, c.26*; and [1993, c.P-6.2](#).

## **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

	SHORT TITLE		
1	Short title	7	Agreements through authorized persons
	INTERPRETATION	8	Consignors and consignees
2	Interpretation		DISPOSITION BY BUYERS AND SELLERS OF GOODS
	DISPOSITIONS BY MERCANTILE AGENTS	9	Seller remaining in possession
3	Powers respecting disposition of goods	10	Buyer obtaining possession
4	Pledge of documents	11	Transfer of documents
5	Pledge for antecedent debt		GENERAL
6	Exchange of goods or documents	12	Mode of transferring documents
6.1	Application of sections 3 to 6	13	Liability of agent
		14	Powers of agent

## CHAPTER F-1

### An Act respecting Factors and Agents

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as *The Factors Act*.

#### INTERPRETATION

##### Interpretation

- 2(1) In this Act:

- (a) “**document of title**” includes any bill of lading, dock warrant, warehousekeeper’s certificate and warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;

- (b) “**goods**” includes wares and merchandise;

- (c) “**mercantile agent**” means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale, or to buy goods or to raise money on the security of goods;

- (d) “**person**” includes a body of persons corporate or unincorporate;

- (e) “**pledge**” includes a contract pledging or giving a lien or security on goods, whether in consideration of an original advance or of a further or continuing advance or of any pecuniary liability.

- (2) A person shall be deemed to be in possession of goods, or of the documents of title to goods, where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or on his behalf.

## DISPOSITIONS BY MERCANTILE AGENTS

**Powers respecting disposition of goods**

**3(1)** Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, a sale, pledge or other disposition of the goods made by him, when acting in the ordinary course of business of a mercantile agent, shall, subject to the provisions of this Act, be as valid as if he were expressly authorized by the owner of the goods to make the sale, pledge or other disposition:

Provided that the person taking under the disposition acts in good faith and has not, at the time of the disposition, notice that the person making the disposition has not authority to make it.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title to goods, a sale, pledge or other disposition that would have been valid if the consent had continued, shall be valid notwithstanding the determination of the consent:

Provided that the person taking under the disposition has not at the time thereof notice that the consent has been determined.

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been, with the consent of the owner, in possession of the goods represented thereby or of any other documents of title to the goods, his possession of the first mentioned documents shall, for the purposes of this Act, be deemed to be with the consent of the owner.

(4) For the purposes of this Act the consent of the owner shall be presumed in the absence of evidence to the contrary.

R.S.S. 1978, c.F-1, s.3.

**Pledge of documents**

**4** A pledge of the documents of title to goods shall be deemed to be a pledge of the goods.

R.S.S. 1978, c.F-1, s.4.

**Pledge for antecedent debt**

**5** Where a mercantile agent pledges goods as security for a debt or liability due from the pledger to the pledgee before the time of the pledge, the pledgee shall acquire no further right to the goods than could have been enforced by the pledger at the time of the pledge.

R.S.S. 1978, c.F-1, s.5.

## FACTORS

c. F-1

**Exchange of goods or documents**

**6** The consideration necessary for the validity of a sale, pledge or other disposition of goods pursuant to this Act may be either a payment in cash or the delivery or transfer of other goods or of a document of title to goods or of a negotiable security or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods or of a document of title to goods, or of a negotiable security, the pledgee acquires no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange.

R.S.S. 1978, c.F-1, s.6.

**Application of sections 3 to 6**

**6.1** Sections 3 to 6 do not apply to a consignment to which *The Personal Property Security Act, 1993* applies.

1979-80, c.26, s.3; 1993, c.P-6.2, s.75.

**Agreements through authorized persons**

**7** For the purposes of this Act an agreement made with a mercantile agent, through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf, shall be deemed to be an agreement with the agent.

R.S.S. 1978, c.F-1, s.7.

**Consignors and consignees**

**8(1)** Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale, or has shipped the goods in the name of another person, and the consignee of the goods has not had notice that that person is not the owner of the goods, the consignee shall in respect of advances made to or for the use of that person have the same lien on the goods as if that person were the owner of the goods, and may transfer the lien to another person.

**(2)** Nothing in subsection (1) limits or affects the validity of any sale, pledge or disposition by a mercantile agent.

R.S.S. 1978, c.F-1, s.8.

## DISPOSITION BY BUYERS AND SELLERS OF GOODS

**Seller remaining in possession**

**9(1)** Where a person, having sold goods, continues or is in possession of the goods or of the documents of title thereto, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under a sale, pledge or other disposition thereof, or under an agreement for sale, pledge or other disposition thereof, to a person receiving the same in good faith and without notice of the previous sale, has the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to do so.

(2) Subsection (1) does not apply to a sale, pledge or other disposition of goods or of documents of title to the goods that is out of the ordinary course of business of the person having sold the goods, where, prior to the sale, pledge or disposition, the interest of the owner is registered in the Personal Property Registry in accordance with the regulations made under *The Personal Property Security Act, 1993*, and Part IV of that Act applies, *mutatis mutandis*, to such registration.

(3) Subsection (2) does not operate so as to prevent a person who receives the goods or the documents of title to the goods in good faith and without notice of the previous sale from selling, pledging or otherwise disposing of the goods or the documents of title to the goods to a person who receives the goods or the documents of title to the goods in good faith and without notice of the first sale, unless the goods are of a type or kind which are required by the regulations under *The Personal Property Security Act, 1993* to be described by serial number and are so described in a registered financing statement.

R.S.S. 1978, c.F-1, s.9; 1979-80, c.26, s.4; 1993, c.P-6.2, s.75.

#### **Buyer obtaining possession**

**10(1)** Where a person, having bought or agreed to buy goods, obtains with the consent of the seller possession of the goods or the documents of title thereto, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under a sale, pledge or other disposition thereof, or under an agreement for sale, pledge or other disposition thereof, to a person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

(2) Subsection (1) does not apply to a sale, pledge or other disposition of goods or of documents of title to the goods by a person who has obtained possession of the goods pursuant to a security agreement under which the seller has a security interest as defined in *The Personal Property Security Act, 1993*.

R.S.S. 1978, c.F-1, s.10; 1979-80, c.26, s.5; 1993, c.P-6.2, s.75.

#### **Transfer of documents**

**11** Where a document of title to goods has been lawfully transferred to a person as a buyer or owner of the goods and that person transfers the document to a person who takes it in good faith and for valuable consideration, the last mentioned transfer has the same effect for defeating a vendor's lien or right of stoppage *in transitu* as the transfer of a bill of lading has for defeating the right of stoppage *in transitu*.

R.S.S. 1978, c.F-1, s.11.

## GENERAL

**Mode of transferring documents**

**12** For the purposes of this Act the transfer of a document may be by endorsement or, where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer, then by delivery.

R.S.S. 1978, c.F-1, s.12.

**Liability of agent**

**13(1)** Nothing in this Act authorizes an agent to exceed or depart from his authority as between himself and his principal or exempt him from any liability civil or criminal for so doing.

(2) Nothing in this Act prevents the owner of goods from recovering the goods from an agent or his assignee at any time before the sale or pledge thereof, or prevents the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto, or any of them by way of lien, as against the owner, or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

(3) Nothing in this Act prevents the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the goods, or any part of that price, subject to any right of set off on the part of the buyer against the agent.

R.S.S. 1978, c.F-1, s.13.

**Powers of agent**

**14** This Act shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Act.

R.S.S. 1978, c.F-1, s.14.

