

BILL

No. 101

An Act to amend *The Agricultural Implements Act*

(Assented to _____)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Agricultural Implements Amendment Act, 2017*.

RSS 1978 c A-10 amended

2 *The Agricultural Implements Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **Section 2 is amended:**

(a) **by repealing subclause (e)(vi) and substituting the following:**

“(vi) any other similar prescribed institution”;

(b) **by repealing clause (g) and substituting the following:**

“(g) **‘implement’**, subject to section 10, means any implement, equipment or machine that is used or intended for use on a farm and that is prescribed”;

(c) **by repealing clause (k) and substituting the following:**

“(k) **‘part’** means a part for an implement, but does not include any services for installing the part”;

(d) **by adding the following clause after clause (k):**

“(k.1) **‘prescribed’** means prescribed in the regulations”; **and**

(e) **by repealing clause (m).**

Section 6 repealed

4 **Section 6 is repealed.**

Section 7 amended

5(1) **Subsection 7(1) is repealed and the following substituted:**

“(1) The Agricultural Implements Board is continued, consisting of not fewer than 3 nor more than 7 members appointed by the Lieutenant Governor in Council.

“(1.1) Each member of the board:

(a) holds office at pleasure for a term not exceeding 4 years and until a successor is appointed; and

(b) may be reappointed”.

(2) Subsection 7(4) is repealed and the following substituted:

“(4) If a member of the board is unable to perform the duties of the member’s 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, on any terms and conditions that the minister considers appropriate, in the place of the member who is unable to perform those duties for a term not exceeding 4 months”.

(3) Subsection 7(6) is amended by striking out “his” and substituting “the member’s”.

Section 9 amended

6 Clause 9(b) is repealed and the following substituted:

“(b) recommend to the minister appropriate action to reduce or correct unreasonable delays in the delivery of parts and service and unreasonable charges for parts and service”.

Section 10 amended

7(1) Clause 10(1.1)(a) is amended by striking out “repair to” and substituting “part for”.

(2) Subsection 10(2) is repealed and the following substituted:

“(2) Subject to the regulations, on receipt of an application pursuant to subsection (1.1), the board may:

- (a) dismiss the application; or
- (b) make a recommendation to the minister that compensation be paid to the applicant farmer in an amount the board considers appropriate.

“(2.1) On the recommendation of the board, the minister may pay compensation in the amount recommended by the board to the applicant farmer out of the general revenue fund”.

(3) Subsection 10(7) is amended:

(a) by repealing clause (a) and substituting the following:

- “(a) to the distributor and the dealer:
- (i) by delivering it to or sending it by registered mail addressed to their respective places of business; or
 - (ii) by any other prescribed means”; and

(b) by repealing clause (b) and substituting the following:

- “(b) to the board:
- (i) by delivering it to or sending it by registered mail addressed to the board; or
 - (ii) by any other prescribed means”.

(4) Subsection 10(8) is amended by striking out “the prescribed notice” and substituting “any notice required pursuant to this section”.

New section 10.1

8 Section 10.1 is repealed and the following substituted:

“Penalty fee

- 10.1(1)** The minister 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;
 - (b) as a result of the hearing mentioned in clause (a):
 - (i) the minister 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; and
 - (c) the minister considers it appropriate to impose a penalty fee.
- (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.
- (3) The minister 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:
- (a) by personal service;
 - (b) by registered mail; or
 - (c) by any other prescribed means.
- (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 general revenue fund”.

Section 11 amended

9(1) Subsection 11(1) is amended by adding “or her” after “his”.

(2) Subsection 11(3) is repealed and the following substituted:

“(3) The maximum award for compensation that may be made to a farmer pursuant to section 10 is \$50,000”.

(3) Subsection 11(4) is repealed and the following substituted:

“(4) Compensation payable to farmers in amounts recommended by the board and the expenses of investigating and hearing claims for compensation may be paid out of the general revenue fund”.

Section 12 amended

10(1) Subsection 12(1) is repealed.

(2) Subsection 12(2) is repealed and the following substituted:

“(2) Subject to any directions of Treasury Board, the board shall, in each year, assess and levy on distributors any rates or specific sums that it considers sufficient:

(a) to pay compensation to farmers; and

(b) to defray the expenses of investigating and hearing claims for compensation pursuant to this Act”.

(3) Subsection 12(4) is amended in the portion preceding clause (a) by striking out “him” and substituting “the distributor”.

(4) Subsection 12(5) is repealed and the following substituted:

“(5) The notice mentioned in subsection (4) may be served by sending it:

(a) by registered mail; or

(b) by any other prescribed means.

“(5.1) A notice served by registered mail pursuant to subsection (5) is deemed to have been served on the day on which the notice was mailed”.

(5) Subsection 12(6) is repealed and the following substituted:

“(6) If at any time it appears that an assessment or a provisional assessment is too low for the purposes set out in subsection (2), 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 set out in this Act”.

Section 14 amended

11 Subsection 14(2) is amended in the portion preceding clause (a) by striking out “percentage of the amount owing that remains unpaid that is prescribed in the regulations” and substituting “prescribed percentage of the amount owing that remains unpaid”.

Section 15 amended

12 Subsection 15(1) is amended by striking out “he” and substituting “the farmer”.

Sections 16 and 17 repealed

13 Sections 16 and 17 are repealed.

Section 18 amended

14(1) Subsection 18(1) is repealed and the following substituted:

“(1) In each fiscal year, the board, in accordance with section 13 of *The Executive Government Administration Act*, shall prepare and submit to the minister a report on the activities of the board for the preceding fiscal year”.

(2) Subsection 18(2) is repealed.

(3) Subsection 18(3) is amended by striking out “and financial statement”.

Section 21 amended

15 Subsection 21(1) is amended by striking out “\$5,000” and substituting “\$25,000”.

Section 22 repealed

16 Section 22 is repealed.

Section 24 amended

17(1) Subsection 24(1) is repealed and the following substituted:

“(1) Every person, including a manufacturer, who sells, or offers for sale, implements in Saskatchewan shall appoint one or more distributors as his, her or its representative in Saskatchewan, but if the person or manufacturer has a branch of his, her or its business in Saskatchewan, that branch may be a distributor”.

(2) Subsection 24(2) is repealed and the following substituted:

“(2) If a manufacturer or person resides or has his, her or its head office in Saskatchewan and has not appointed a distributor, the manufacturer or person is deemed to be his, her or its own distributor”.

(3) Subsection 24(5) is amended by striking out “the province” and substituting “Saskatchewan”.

(4) Subsection 24(7) is repealed and the following substituted:

“(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 of not more than \$25,000”.

New section 25

18 Section 25 is repealed and the following substituted:

“Supply of parts by distributors

25(1) This section applies to implements that are being operated in Saskatchewan.

(2) No distributor who has sold or distributed implements or has implements sold or distributed on the distributor’s behalf shall fail to maintain in Saskatchewan an adequate supply of parts that may be required for those implements.

(3) Every distributor who contravenes subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$50,000”.

Section 26 amended

19(1) Subsection 26(2) is amended:

(a) in clause (a) by striking out “form prescribed in the regulations” and substituting “prescribed form”; and

(b) in clause (b) by striking out “fee that may be prescribed in the regulations” and substituting “prescribed fee”.

(2) Subsection 26(6) is amended by striking out “\$10,000” and substituting “\$25,000”.

(3) Subsection 26(8) is amended by striking out “in the manner prescribed in the regulations” and substituting “in the prescribed manner”.

(4) Subsection 26(10) is amended by striking out “\$5,000” and substituting “\$25,000”.

Section 27 amended

20(1) Subsection 27(1) is amended by striking out “the province” and substituting “Saskatchewan”.

(2) Subsection 27(3) is amended by striking out “\$1,000” and substituting “\$25,000”.

Section 28 amended

21 Subsection 28(2) is amended by striking out “\$5,000” and substituting “\$25,000”.

New section 29

22 Section 29 is repealed and the following substituted:

“Information to be supplied by distributor

29 On request by the minister, a distributor selling or offering implements for sale in Saskatchewan shall, within the period set out in the request, provide the minister with a list of any or all of the following:

(a) any implements and parts that are:

(i) sold;

(ii) offered for sale; or

(iii) intended to be offered for sale in Saskatchewan;

(b) the suggested retail prices at which the implements and parts mentioned in clause (a) are sold, offered for sale or intended to be offered for sale;

(c) illustrations, descriptions and specifications of any implements and parts mentioned in clause (a)”.

Section 30 amended

23 Section 30 is amended by striking out “\$5 for every day during which the offence continues” and substituting “\$25,000”.

New section 32

24 Section 32 is repealed and the following substituted:

“Failure of dealer to maintain supply of parts

32 Section 25 applies, with any necessary modification, to dealers of implements and parts”.

Section 33 amended

25(1) Subsection 33(4) is repealed and the following substituted:

“(4) If 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 72 hours after the time the order was made, not including holidays, unless delivery of the parts cannot be made within that period because of strikes or other conditions beyond the control of the dealer and the distributor”.

(2) Subsection 33(6) is amended by striking out “repair”.

New section 34

26 Section 34 is repealed and the following substituted:

“Inspections

34(1) The minister may appoint any persons as inspectors for the purposes of this Act.

(2) No dealer or distributor or an agent of either shall refuse to permit an inspector to enter the dealer, distributor or agent’s premises during the usual business hours for the purposes mentioned in subsection (1) and no person shall obstruct that inspector in the performance of his or her duties.

(3) Every person who contravenes subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000”.

New section 35

27 Section 35 is repealed and the following substituted:

“Sales contracts to be in writing

35(1) If an implement is sold, whether for cash or on credit and:

(a) the implement is new, the sales contract must be in writing in the prescribed form; or

(b) the implement is second-hand, the sales contract must be in writing in the prescribed form.

(2) A contract mentioned in subsection (1), 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 prescribed forms.

(3) If a sales contract, or a part or provision of a prescribed sales contract, is prescribed for new implements only, but that prescribed sales contract, part or provision is used for a second-hand or rebuilt implement, the sales contract, part or provision is deemed to be conclusive evidence that the implement sold is or is warranted to be a new one.

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- (4) If subsection (1) is not complied with:
- (a) the sales contract is not invalid on that account only;
 - (b) all the terms, conditions and warranties of the prescribed form that should have been used apply, so far as applicable, and are deemed to be incorporated in the sales contract in the same manner as if it had been reduced into writing in the prescribed form;
 - (c) if the sales contract for a new implement is not in writing and signed by the parties:
 - (i) the purchaser is deemed to have, instead of a 10 days' trial period as provided in clause 36(5)(a), a 30 days' trial period;
 - (ii) the purchaser may, within the 30-day period or within 2 days after the expiry of that period, give notice in writing to the dealer or in the dealer's absence to the distributor that the implement does not work well; and
 - (iii) in the circumstance where a notice in writing is given pursuant to subclause (ii), all the terms and conditions set out in this Act and in the prescribed form, except the limitation as to a 10 days' trial period, apply;
 - (d) 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:
 - (i) to the agency of the dealer at the place where the implement or part was purchased; or
 - (ii) if there is no agency, to the dealer or to the nearest agent of the dealer;
 - (e) 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.
- (5) Nothing in this section shall be construed as dispensing with the necessity of a written contract if an Act or the law requires a written contract to constitute a binding contract”.

Section 36 amended

28(1) Subsection 36(7) is repealed and the following substituted:

“(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 period mentioned in those subsections, unless the dealer or distributor either before or after the expiration of the period 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”.

(2) Clause 36(10)(d) is amended by striking out “prescribed” and substituting “mentioned”.

New section 37

29 Section 37 is repealed and the following substituted:

“Contracts to be kept two years and produced on request

37 Every dealer shall:

- (a) keep one copy of every sales contract for an implement entered into by the dealer for at least 2 years; and
- (b) on the request of an inspector appointed pursuant to section 34, produce the copy of the sales contract and permit the inspector to make copies”.

Section 39 amended

30 Clause 39(b) is repealed and the following substituted:

“(b) a legible copy of the contract signed by the dealer or the dealer’s agent is served on the purchaser:

- (i) by personal service;
- (ii) by registered mail; or
- (iii) by any other prescribed means”.

New section 40

31 Section 40 is repealed and the following substituted:

“Payment to dealer’s agent deemed payment

40(1) In this section, ‘**payment**’ means payment due under a contract or under any note given for a contract.

(2) A purchaser of an implement or part may make any payment to any sales or collection agent of the dealer in Saskatchewan, and receipt of the payment by the agent is deemed to be receipt by the dealer.

(3) If the dealer notifies a purchaser mentioned in subsection (2) in writing of the name and address of a person to whom payment is to be made, all subsequent payments must be made to that person”.

Section 41 amended

32(1) Subsection 41(2) is amended by striking out “he” and substituting “the dealer”.

(2) Subsection 41(3) is repealed and the following substituted:

“(3) The dealer may agree to take from the purchaser the purchaser’s promissory note 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 the promissory note instead of the taking of a security interest and, in the case of a contract for sale of a new implement in the prescribed form, no commitment of the purchaser found under the heading ‘Purchaser’s Commitments’ in the contract applies and those commitments are deemed to be deleted from the contract”.

(3) Subsection 41(4) is repealed and the following substituted:

“(4) If a dealer agrees to take a promissory note pursuant to subsection (3):

(a) no security interest shall be taken or given with respect to the implement purchased and, subject to subsection (3), when the contract in the prescribed form governing payment of the purchase price is duly completed it shall constitute the entire contract between the parties; and

(b) if the dealer or the dealer’s assignee takes action and recovers judgment against the purchaser on the promissory note, or for the price or balance of the price of the implement, subsection 70(1) of *The Saskatchewan Farm Security Act* does not apply”.

Section 45 amended

33 Section 45 is amended by striking out “forms prescribed in the regulations would give him” and substituting “prescribed forms would give him or her”.

Section 46 amended

34 Subsection 46(1) is repealed and the following substituted:

“(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 or her 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 prescribed forms, and the insertion of that statement has no effect on the contract, order or security”.

Section 48 amended

35 Subsection 48(1) is amended by striking out “forms prescribed in the regulations” and substituting “prescribed form”.

New section 49

36 Section 49 is repealed and the following substituted:

“Validity of forms

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

Section 52 repealed

37 Section 52 is repealed.

New section 52.1

38 The following section is added before section 53:

“Service of notice or documents

52.1(1) In this section, **‘business day’** means a day other than a Saturday, Sunday or holiday.

(2) Any notice, order, decision or other document required by this Act or the regulations to be given or served for which the manner of service is not otherwise provided in this Act is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served or by any other prescribed means.

(3) A document served by ordinary mail or registered mail is deemed to have been received on the tenth business day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, he or she did not receive the document or that he or she received it at a later date.

(4) Irregularity in the service of a notice, order or decision does not affect the validity of an otherwise valid notice, order or decision”.

Section 53 amended

39 Section 53 is amended:

(a) by striking out the portion preceding clause (a) and substituting the following:

“The Lieutenant Governor in Council may make regulations:”;

(b) in clause (b) by striking out “repair”;

(c) in clause (k) by adding “, enlarging or restricting the meaning of” after “defining”; and

(d) by adding the following clauses after clause (l):

“(m) for the purposes of subclause 10(7)(a)(ii) or (b)(ii), clause 10.1(4)(c), subsection 12(5), subclause 39(b)(iii) or section 52.1, prescribing other means of serving notices, orders, decisions or other documents;

“(n) respecting administrative penalties, including:

(i) prescribing the contraventions of this Act or the regulations for which a penalty may be assessed; and

(ii) prescribing the amount of an administrative penalty and, for that purpose, may prescribe different amounts for different contraventions or breaches;

“(o) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

“(p) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act”.

New sections 53.1 to 53.3

40 The following sections are added after section 53:

“Administrative penalty

53.1(1) The minister may assess a penalty in the prescribed amount against a prescribed person, or prescribed class of persons, for prescribed contraventions of this Act or the regulations.

- (2) Before assessing a penalty, the minister shall provide notice to the person:
 - (a) setting out the facts and circumstances that, in the minister’s opinion, render the person liable to a penalty;
 - (b) specifying the amount of the penalty that the minister considers appropriate in the circumstances; and
 - (c) informing the person of the person’s right to make representations to the minister.
- (3) No penalty is to be assessed by the minister more than 3 years after the day on which the act or omission that renders the person liable to a penalty first came to the knowledge of the minister.
- (4) A person to whom notice is sent pursuant to subsection (2) may make representations to the minister respecting whether or not a penalty should be assessed and the amount of any penalty.
- (5) Representations pursuant to subsection (4) must be made within 30 days after the person received the notice pursuant to subsection (2).
- (6) After considering any representations, the minister may:
 - (a) assess a penalty and set a date by which the penalty is to be paid in full; or
 - (b) determine that no penalty should be assessed.
- (7) The minister shall serve a copy of his or her decision pursuant to subsection (6) on the person who made the representations.
- (8) The minister may file in the Court of Queen’s Bench a certificate signed by the minister and setting out:
 - (a) the amount of the penalty assessed pursuant to subsection (6); and
 - (b) the person from whom the penalty is to be recovered.
- (9) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen’s Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.
- (10) The minister may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of the person required to pay the penalty.

“Appeal to Court of Queen’s Bench re administrative penalty

53.2(1) Any person aggrieved by a decision of the minister to impose a penalty pursuant to section 53.1 may appeal that decision on a question of law to a judge of the Court of Queen’s Bench within 30 days after the date of service of the minister’s decision.

(2) The record of an appeal pursuant to subsection (1) consists of:

- (a) the minister’s decision;
- (b) any written representations made to the minister by the person named in the decision;
- (c) the notice of appeal commencing the appeal;
- (d) any other prescribed documents or material; and
- (e) any other material that the Court of Queen’s Bench may require.

(3) On hearing an appeal pursuant to this section, the judge of the Court of Queen’s Bench may issue an order:

- (a) confirming the penalty;
- (b) amending the amount of the penalty; or
- (c) quashing the minister’s decision to assess a penalty.

“Minister may apply for compliance order

53.3(1) The minister may apply to a judge of the Court of Queen’s Bench for all or any of the following:

- (a) an order compelling a person to comply with this Act or the regulations;
- (b) an order enjoining any person from proceeding contrary to this Act or the regulations.

(2) On an application pursuant to this section, the judge of the Court of Queen’s Bench may make the order requested or any other order that the judge considers appropriate on any terms and conditions that the judge considers appropriate.

(3) The minister may apply for an order pursuant to subsection (1) regardless of whether an order pursuant to this Act or the regulations has been issued with respect to the matter”.

New sections 54.1 and 54.2

41 The following sections are added after section 54:

“Directors, etc., of corporations

54.1 If a corporation commits an offence pursuant to this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties provided for the offence whether or not the corporation has been prosecuted or convicted.

“Transitional

54.2 On the coming into force of subsection 10(1) of *The Agricultural Implements Amendment Act, 2017*:

- (a) the amount in the Agricultural Implements Compensation Fund is to be paid to the general revenue fund; and
- (b) any claim against the Agricultural Implements Compensation Fund or any liability of that Fund may be continued against the general revenue fund”.

Coming into force

42 This Act comes into force on March 31, 2018.

SECOND SESSION

Twenty-eighth Legislature

SASKATCHEWAN

B I L L

No. 101

*An Act to amend *The Agricultural Implements Act**

Received and read the

First time

Second time

Third time

And passed

Honourable Lyle Stewart
