

## EXPLANATORY NOTES

### BILL

No. 187

### An Act to amend *The Saskatchewan Farm Security Act*

#### Clause of Bill

1 *The Saskatchewan Farm Security Amendment Act, 2015.*

2 *The Saskatchewan Farm Security Act.*

3 **Existing provision 2**

PART I

**Title and Interpretation**

2(1) In this Act:

- (a) **“agricultural corporation”** means, except in Part VI, a corporation:
  - (i) that is engaged in the business of farming; and
  - (ii) the majority of issued voting shares of which are legally or beneficially owned by producers who are resident persons;
- (d) **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan;
- (h) **“homestead”** means:
  - (i) the house and buildings occupied by a farmer as his bona fide farm residence; and
- (o) **“mortgage”** means any mortgage of farm land, including:
  - (i) a mortgage granted to:
    - (A) the Agricultural Credit Corporation of Saskatchewan pursuant to *The Agricultural Credit Corporation of Saskatchewan Act*; or
    - (B) the Farm Credit Corporation pursuant to the *Farm Credit Act* (Canada), as amended from time to time, or by any other corporation created by or pursuant to any other Act of the Parliament of Canada;
  - (ii) an agreement for the sale of land; and
  - (iii) an agreement renewing or extending a mortgage or agreement for sale;
  - (iv) None

- (w) **“recognized financial institution”** means:
- (i) a bank that is governed by the *Bank Act* (Canada), as amended from time to time;
  - (ii) a credit union that is incorporated or continued pursuant to *The Credit Union Act, 1998*;
  - (v) the Farm Credit Corporation constituted pursuant to the *Farm Credit Canada Act*, as amended from time to time.
- (bb) **“spouse”** means:
- (ii) if a person does not have a legal spouse or is living separate and apart from his legal spouse, a common law spouse of that person.  
1988-89, c.S-17.1, s.2; 1992, c.74, s.3; 1993, c.51, s.3; 1996, c.9, s.25; 1997, c.T-22.2, s.90; 1998, c.C-45.2, s.476; 2002, c.55, s.3; 2004, c.T-18.1, s.305.

### **Explanation**

The changes in this section are housekeeping in nature with gender being made neutral, updating the official name of Farm Credit Canada, updating the name of the Court of Queen’s Bench and providing for credit unions from outside the province to be recognized financial institutions within Saskatchewan, which is current practice. Reference to Part VI in the definition of an agricultural corporation has been removed as Part VI will no longer refer to agricultural corporation. An addition has also been made to provide for the future inclusion through regulations, other types of agreements as mortgages.

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### **Existing provision 12**

#### **PART II**

#### **Farm Land Security**

#### **Notice to board and farmer**

**12(7)** On the expiry of the mediation period mentioned in subsection (6), the mediator may file a mediation certificate with the board stating:

- (a) that, in his opinion, either party did not participate in mediation in good faith; and
- (b) his reasons for that opinion.

**(12)** The board shall make a written report and the report:

- (a) shall include any matter that the board considers relevant to the application including, without limiting the generality of the foregoing:
  - (ii) whether the farmer has a reasonable possibility of meeting his obligations under the mortgage;
  - (iii) whether the farmer is making a sincere and reasonable effort to meet his obligations under the mortgage;
  - (v) an explanation, if any, of where the farmer has allocated his financial resources during the period in which the mortgage has been in arrears, and why the resources were so allocated;
- (b) may include:
  - (iii) the earning capacity, income and assets of the farmer and his spouse;

- (iv) the proportion of the income of the farmer and his spouse that is required to meet his debt obligations;
- (vi) estimates of future commodity prices for the commodities produced by that farmer and the effect that those prices would have on his income;
- (ix) any conditions and circumstances beyond the control of the farmer including his inability to market an agricultural commodity.

1988-89, c.S-17.1, s.12; 1992, c.74, s.5.

**Explanation**

The amendments made to this section are to make the language gender neutral.

**5** **Existing provision 13**

**Presumption of viability and sincerity**

**13** Where an application is made for an order pursuant to section 11, the court:

- (a) shall presume that the farmer:
  - (i) has a reasonable possibility of meeting his obligations under the mortgage; and
  - (ii) is making a sincere and reasonable effort to meet his obligations under the mortgage;

1988-89, c.S-17.1, s.13; 1992, c.74, s.6.

**Explanation**

The amendments made to this section are to make the language gender neutral.

**6** **Existing provision 17**

**Homestead**

**17(1)** Where:

- (b) the court is satisfied that:
  - (iii) the farmer is making a sincere and reasonable effort to meet his obligations under the mortgage;

(4) Notwithstanding subsection (2), a mortgagee may apply to the court for leave to bring an application for an order pursuant to section 11 if:

- (c) the farmer is no longer making a sincere and reasonable effort to meet his obligations under the mortgage.

1988-89, c.S-17.1, s.17.

**Explanation**

The amendments made to this section are to make the language gender neutral.

**7** **Existing provision 18**

**Burden of proof**

**18(1)** Where an application for an order is made pursuant to section 11, in addition to any other burden of proof that lies with the mortgagee, the mortgagee has the burden of proof to establish that:

(a) the farmer has no reasonable possibility of meeting his obligations under the mortgage; or

(b) the farmer is not making a sincere and reasonable effort to meet his obligations under the mortgage;

and unless the court is satisfied that the burden of proof has been discharged, it shall dismiss the application.

(2) For the purpose of subsection 17(1), in addition to any other burden of proof that lies with the mortgagee, the mortgagee has the burden of proof to establish that the farmer is not making a sincere and reasonable effort to meet his obligations under the mortgage.

(3) For the purpose of subsection 17(4), in addition to any other burden of proof that lies with the mortgagee, the mortgagee has the burden of proof to establish that:

(c) the farmer is no longer making a sincere and reasonable effort to meet his obligations under the mortgage.

1988-89, c.S-17.1, s.18.

### **Explanation**

The amendments made to this section are to make the language gender neutral.

## **8 Existing provision 21**

### **Writ of execution**

**21(2)** Sections 11 to 20 apply *mutatis mutandis* to an application pursuant to subsection (1).

(5) Section 12 applies *mutatis mutandis* to an application pursuant to subsection (4).

1988-89, c.S-17.1, s.21; 1989-90, c.22, s.4; 2004, c.59, s.21; 2010, c.E-9.22, s.234.

### **Explanation**

The wording is being modernized (ie. replace “*mutatis mutandis*” with “necessary modification”. No change to the meaning or interpretation of the clause.

## **9 Existing provision 24**

### **Confidentiality**

**24(2)** Information received pursuant to this Part with respect to a farmer, a mortgagee, an action or an application for an order pursuant to section 11 may be provided to:

(a) a Farm Debt Review Board established pursuant to the *Farm Debt Review Act* (Canada), as amended from time to time;

1988-89, c.S-17.1, s.24.

### **Explanation**

An amendment is being made to update for the name change of the federal legislation to the *Farm Debt Mediation Act* (Canada).

**Existing provision 27****Right of first refusal**

27(1) Notwithstanding any provision in this Act or in any other Act, but subject to subsection 27.2(22) where, after the coming into force of this Act:

(a) either:

- (i) a farmer voluntarily agrees to transfer his farm land by quit claim or otherwise to a mortgagee; or
- (ii) a mortgagee obtains a final order of foreclosure or cancellation of agreement for sale against farm land; and

(b) the mortgagee subsequently receives a bona fide offer for all or any portion of his interest in that farm land which he is willing to accept;

the mortgagee shall give to the farmer who voluntarily transferred the farm land by quit claim or otherwise or against whom the final order of foreclosure or cancellation of agreement for sale issued, written notice of the terms of the offer.

(2) A farmer described in subsection (1):

(a) is deemed to have the first right for a period of 15 days after the written notice has been received by him, to notify the mortgagee of his intention to exercise his right to purchase all the farm land that is the subject of the offer and for the purchase price stated in the offer; and

(b) where he notifies the mortgagee of his intention to exercise his right and on the expiry of the 15-day period mentioned in clause (a), shall provide within 15 days either:

- (i) the purchase price; or
- (ii) an unconditional and unequivocal letter of commitment from a recognized financial institution to the mortgagee to finance within a reasonable period of time the farmer's purchase of the farm land that is the subject of the offer and for the price stated in the offer.

(4) Where the farmer does not exercise his right pursuant to subsection (2) and the offeror does not purchase the land:

(a) the rights of the farmer under this section shall continue with respect to subsequent offers; and

(b) subsections (1) to (3) apply to the offers mentioned in clause (a).

1988-89, c.S-17.1, s.27; 1989-90, c.22, s.7; 1992, c.74, s.7.

**Explanation**

The purpose of this amendment is to make the language gender neutral and to clarify the wording from "received by him" to "received by the farmer". There is no change to existing interpretation of this clause.

**11**     **Existing provision 27.1**

27.1   (d) “**lender**” means a mortgagee that is:

- (i) a recognized financial institution other than the Farm Credit Corporation as constituted pursuant to the *Farm Credit Act (Canada)*, as amended from time to time;

1992, c.74, s.8; 1994, c.30, s.3

**Explanation**

The changes in this section are housekeeping in nature, updating the official name of Farm Credit Canada.

**12**     **Existing provision 31**

**Limits and acknowledgement of guarantees**

**31(2)** No guarantee has any effect unless the person entering into the obligation:

- (b) acknowledges to the lawyer or notary public that he executed the guarantee; and

(3) The lawyer or notary public, after being satisfied by examination of the person entering into the obligation that he is aware of the contents of the guarantee and understands it, shall issue a certificate in the form prescribed in the regulations.

(4) If a notary public issues a certificate pursuant to subsection (3), he shall do so under his hand and seal.

1988-89, c.S-17.1, s.31.

**Explanation**

The amendment provides clarification of wording from “he shall do so” defining it as the “the notary public shall do so”. The remaining amendments made are to make the language gender neutral. There is no change to existing interpretation of this clause.

**13**     **Existing provision 38**

**Application of fire insurance money**

**38(3)** A farmer who makes an application pursuant to subsection (1) shall make the application:

- (b) on 10 days’ notice to the mortgagee of his intention to make the application.

1988-89, c.S-17.1, s.38.

**Explanation**

The purpose of this amendment is to make the language gender neutral.

**14**      **Existing provision 40**

**Restriction of rights under lease option agreement**

**40(1)** Where a farmer:

- (a) has an option of purchasing the farm land; or
- (b) is entitled to become the purchaser of the farm land on the performance of any condition or conditions;

the right of the lessor or his personal representatives or assigns to recover by action or extra-judicial proceeding any rent payable by the farmer with respect to the farm land is restricted to the recovery of an amount not exceeding the reasonable rental value of the farm land, having regard to all of the circumstances between the farmer and lessor.

**(3)** Where:

- (a) an option of purchasing farm land is sought to be terminated on account of breach or non-performance of any covenant, agreement, stipulation or condition contained in the lease; and
- (b) the holder of the option is in possession of the farm land and a farmer;

the farmer may apply to the court and the court may make any order that it considers just, including granting an extension of the time within which the farmer may perform his obligations.

1988-89, c.S-17.1, s.40.

**Explanation**

The purpose of these amendments is to make the language gender neutral.

**15**      **Existing provision 43**

PART III

**Home Quarter Protection**

**Interpretation of Part**

**43** In this Part:

- (b) “**mortgage**” does not include a mortgage:
  - (ii) granted before the coming into force of this Act to the Farm Credit Corporation constituted by the *Farm Credit Act* (Canada), as amended from time to time.

1988-89, c.S-17.1, s.43.

**Explanation**

An update is being made to the official name of Farm Credit Canada.

**16**      **Existing provision 45**

PART IV

**Possession of Equipment**

**Interpretation of Part**

**45** In this Part:

- (a) “**farmer**” means a producer who or agricultural corporation that owes payment or other performance of a secured obligation, whether or not he or it owns or has rights in the article, and includes a person appointed pursuant

to subsection 49(1);

1988-89, c.S-17.1, s.45.

**Explanation**

The purpose of this amendment is to make the language gender neutral.

**17 Existing provision 46**

**Vendor's rights restricted**

**46(2)** Notwithstanding any other Act or any agreement or contract between a vendor and farmer but subject to subsection (3), where:

(a) an article is sold; and

(b) the vendor, after delivery, has a lien for all or part of the purchase price of the article mentioned in clause (a);

the vendor's right to recover the unpaid purchase money is restricted to his lien on the article sold and to his right to repossession and sale.

1988-89, c.S-17.1, s.46; 1992, c.43, s.3; 1993,  
c.P-6.2, s.75.

**Explanation**

The Provision is being updated to reflect recent changes to *The Enforcement of Money Judgements Act*.

**18 Existing provision 50**

**Application for hearing**

**50(2)** A farmer who wishes to apply for hearing by the court shall:

(a) make his application in the form prescribed in the regulations; and

1988-89, c.S-17.1, s.50.

**Explanation**

The purpose of this amendment is to make the language gender neutral.

**19 Existing provision 53**

**Orders of the court**

**53(7)** Where a farmer makes an application pursuant to section 20 of the *Farm Debt Review Act* (Canada), as amended from time to time, with respect to the implement, the court:

1988-89, c.S-17.1, s.53.

**Explanation**

An amendment is being made to update the name of the federal legislation to the *Farm Debt Mediation Act* (Canada).

**20 Existing provision 57**

**Notice of possession of implement**

**57** Where a secured party takes possession of an implement, he shall serve on



the farmer:

1988-89, c.S-17.1, s.57.

**Explanation**

The purpose of this amendment is to make the language gender neutral.

**21 Existing provision 58**

**Application for hearing after notice of possession**

**58(2)** Subsections 50(2) and (3) and 53(4), (6) and (7) and sections 51, 54 and 59 apply *mutatis mutandis* with respect to an application for a hearing made pursuant to subsection (1).

1988-89, c.S-17.1, s.58.

**Explanation**

The wording is being modernized (ie. replace “*mutatis mutandis*” with “necessary modification”). No change to the meaning or interpretation of the clause.

**22 Existing provision 59**

**Action by secured party after possession of implement**

**59** A secured party who takes possession of an implement other than pursuant to an order of the court shall:

(b) if the farmer applies for a hearing, keep the implement in his possession or return it to the farmer unless otherwise ordered by the court.

1988-89, c.S-17.1, s.59.

**Explanation**

The purpose of this amendment is to make the language gender neutral.

**23 Existing provision 60**

**Court order postponement**

**60(1)** During the period that:

(b) the matter is adjourned for mediation pursuant to this Act or the *Farm Debt Review Act* (Canada), as amended from time to time;

(4) Section 49 applies *mutatis mutandis* to an application pursuant to subsection (2).

1988-89, c.S-17.1, s.60.

**Explanation**

An amendment is being made to update the name of the federal legislation to the *Farm Debt Mediation Act* (Canada). The wording is also being changed to update legislative wording (ie. replace “*mutatis mutandis*” with “necessary modification”). No change to the meaning or interpretation of the clause.

**24**     **Existing provision 62**

**Restriction on payment to assignee**

**62** Where an implement is sold under a conditional sale contract and the secured party:

- (a) assigns his interests in the contract; and
- (b) agrees with the assignee that he is liable to the assignee for any amount due under the contract in default of payment of that amount by the farmer; the secured party is not liable to the assignee for any amount in default during any period that payment by the farmer is postponed by an order of the court pursuant to section 53 or 58.

1988-89, c.S-17.1, s.62.

**Explanation**

The purpose of this amendment is to make the language gender neutral.

**25**     **Existing provision 66**

**PART V**

**Exemptions**

**Exemptions under executions**

**66** The following property of a farmer and his family is declared free from seizure under judgment enforcement:

- (c) produce of a farm sufficient, when converted into cash, to provide food and fuel for heating purposes for the farmer and his family until the next harvest;
- (g) the tools and necessary implements and office furniture and equipment, used by the farmer in the practice of his business, trade, calling or profession with a value that does not exceed the prescribed amount;
- (h) the house and buildings occupied by the farmer as his bona fide residence and the lot or lots on which they are situated according to an approved plan to the extent of \$32,000;
- (j) the crop of the farmer to the extent that is sufficient, when converted into cash, along with any other means that he may have, to:
  - (i) pay all unpaid legitimate costs of harvesting the crop;
  - (ii) provide a necessary living allowance for the support of the farmer and his family until the crop of the following year is about to be harvested; and
  - (iii) provide necessary costs of his farming operations until that time;

1988-89, c.S-17.1, s.66; 1989-90, c.22, s.11; 1994, c.30, s.4; 2000, c.L-5.1, s.481; 2010, c.E-9.22, s.235.

**Explanation**

The purpose of these amendments is to make the language gender neutral.

**26**     **Existing provision 68**

**Exemptions under security agreement**

**68(2)** Subsection (1) does not apply with respect to a security agreement executed

as security for:

- (a) a loan guaranteed under the *Home Improvement Loans Guarantee Act* (Canada), as amended from time to time; or
- (b) a guaranteed farm improvement loan within the meaning of:
  - (i) the *Farm Improvement Loans Act* (Canada), as amended from time to time; or
  - (ii) the *Farm Improvement and Marketing Co-operative Loans Act* (Canada), as amended from time to time.

1988-89, c.S-17.1, s.68; 1989-90, c.22, s.12; 1992, c.74, s.11; 1993, c.51, s.11; 2004, c.26, s.3; 2010, c.E-9.22, s.237.

### **Explanation**

An amendment is being made to reflect a change in the federal legislation for a guaranteed farm improvement loan which is now within the meaning of the *Canadian Agriculture Loans Act*.

## **27 Existing provision 70**

### **Exceptions**

**70(1)** Except in the case of food, clothing and bedding of the farmer and his family, this Part does not exempt from seizure an article the price of which forms the subject-matter of the judgment on which the execution is issued.

1988-89, c.S-17.1, s.70; 1992, c.74, s.12; 1993, c.P-6.2, s.75; 1998, c.14, s.5; 2015, c.21, s.64.

### **Explanation**

A clarification of the wording is being made (ie. change the wording from “his family” to “farmer’s family”) and gender neutral wording. No change to meaning or interpretation.

## **28 Existing provision 71**

### **Deceased debtor**

**71** Where a farmer dies, his property that would be exempt pursuant to this Part from seizure under execution and that is exempt pursuant to this Part from seizure under a security agreement mentioned in section 68 is exempt as against his personal representative if it is in the use and enjoyment of and is necessary for the maintenance and support of:

1988-89, c.S-17.1, s.71.

### **Explanation**

The purpose of this amendment is to make the language gender neutral.

## **29 Existing provision 75(1)(a)**

### **Interest in annuity exempt**

**75(1)** Any:

- (a) property and interest of:

- (ii) a farmer interested in or entitled to a contract for an annuity; under the *Government Annuities Act* (Canada), as amended from time to time; and
- (2) This Part is not intended to conflict or be inconsistent with the *Government Annuities Act* (Canada), as amended from time to time.  
1988-89, c.S-17.1, s.75.

### **Explanation**

The purpose of this amendment is to remove “as amended from time to time”, as Subsection 29(2) of *The Interpretation Act, 1995* states that references to Acts of Parliament are to be interpreted as references to those Acts as amended from time to time.

## **30 Existing provision 76**

### **PART VI**

### **Farm Ownership**

### **Interpretation of Part**

**76** In this Part:

- (a.1) **“agricultural corporation”** means, except in section 85.1, a corporation:
  - (i) that is primarily engaged in the business of farming; and
  - (ii) the majority of issued voting shares of which are legally or beneficially owned by producers who are resident persons within the meaning of this Part;
- (a.2) **“Canadian-owned entity”** means:
  - (i) an agricultural corporation; or
  - (ii) a corporation, partnership, syndicate, joint venture, co-operative, association, or any other similar entity prescribed in the regulations, in which all the shares or interests are legally and beneficially owned, and all the memberships are held, by resident persons or other Canadian owned entities;but does not include an entity that has shares listed on an exchange;
- (c.1) none
- (d) **“farm land”** means real property in Saskatchewan that is situated outside a city, town, village, hamlet or resort village or the Northern Saskatchewan Administration District as defined in *The Northern Municipalities Act* and that is used or is capable of being used for the purposes of farming, but does not include:
  - (i) minerals contained in, on or under that real property; and
  - (ii) land used primarily for the purpose of extracting, processing, storing or transporting minerals;
  - (iii) none
- (e) **“land holding”** includes:
  - (i) farm land;
  - (ii) any interest in farm land held under an agreement to purchase or lease;

- (iii) any interest in farm land held under any agreement that may directly or indirectly:
  - (A) result in vesting of title to farm land;
  - (B) confer the right to possession of farm land; or
  - (C) confer any right or control ordinarily accruing to the owner of farm land;
  - (D) none
  - (E) none

(iv) those kinds and types of shares, that may be designated by the Lieutenant Governor in Council, legally or beneficially owned in a corporation having a land holding;

(v) for the purposes of sections 86, 94 and 95 and clause 100(b), any interest in a limited partnership where that limited partnership has a land holding;

but does not include farm land or any interest in farm land held by way of security for a debt or other obligation;

(g) **“non-Canadian-owned entity”** means a corporation, partnership, syndicate, joint venture, co-operative, association, or any other similar entity prescribed in the regulations, that is not a Canadian-owned entity;

(i) **“person”** includes a corporation, partnership, syndicate, joint venture, cooperative, association or any other similar entity prescribed in the regulations;

(j) **“resident person”** means an individual who:

(i) resides in Canada for at least 183 days in any year; or

(ii) is a Canadian citizen.

1993, c.51, s.12; 1996, c.C-27.01, s.14; 2002, c.55, s.4.

### **Explanation**

The term **“agricultural corporation”** is removed, as any minority foreign ownership percentage still has to comply with the foreign ownership restrictions of no more than 10 acres.

This change clarifies the definition of Canadian owned entity and non-Canadian owned entity, and allows for regulations to define additional bodies as entities, and additional corporations or entities to be defined as either Canadian-owned or non-Canadian-owned entities. The definition continues to define organizations that have shares listed on a public exchange as non-Canadian owned entities.

A new term **“entity”** (c.1) was added with a corresponding list of types including pensions and trusts. The amendments also allow for the regulations to specifically define any additional body to be an entity.

The term **“farm land”** is being revised to exclude land used primarily for sand and gravel extraction, as this land is not considered suitable for farming.

The definition of a **“land holding”** has been amended to include the right, either directly or indirectly, to the capital appreciation of farmland and to allow regulations to define other rights that would normally be attached to the ownership of farmland. It also allows

regulations to define the kinds and types of shares of a corporation that constitute a land holding, and to define additional types of debts or securities to be prescribed as a land holding. The amendment also includes “limited partnerships” in the definition of land holding, as limited partnerships apply to the entire Part VI of the Act, as section 86 is being repealed.

The wording is updated to reflect current legislative wording when referring to prescribing regulations.

With the creation of the term “entity”, the term “**person**” is simplified to include an entity or a corporation.

The term “**resident person**” will now be defined in regulations.

### 31 Existing provision 84

#### **Land holdings by non-Canadian-owned entities restricted**

**84(1)** Subject to sections 85, 85.1 and 88, no non-Canadian-owned entity shall have or acquire an aggregate land holding in excess of 10 acres.

(2) Notwithstanding subsection (1), the board may:

- (a) give written consent to a non-Canadian-owned entity to have or acquire a land holding in excess of that permitted by subsection (1); and
- (b) if the board gives its consent pursuant to clause (a), impose any terms and conditions on that consent that the board considers appropriate.

2002, c.55, s.11.

#### **Explanation**

Reference to section 85.1 (which is being repealed) is being removed. Reference to Board decisions for exemptions is changed to reflect terminology used (ie. the Board calls the exemptions that it grants “orders”).

### 32 Existing provision 85.1

#### **Exception re section 84**

**85.1(1)** In this section:

- (a) “**agricultural corporation**” means a corporation:
  - (i) that is engaged in the business of farming; and
  - (ii) the majority of issued voting shares of which are legally or beneficially owned by producers who are Saskatchewan residents;
- (b) “**Saskatchewan resident**” means an individual who resides in Saskatchewan for at least 183 days in any year.

(2) Notwithstanding subsection 84(1), a non-Canadian-owned entity may have or acquire an aggregate land holding of 320 acres if the majority of issued voting shares of the non-Canadian-owned entity are legally or beneficially owned by Saskatchewan residents or agricultural corporations.

2002, c.55, s.11.

### **Explanation**

This section is being repealed. These definitions are not applicable anymore, as the interpretation is that any minority foreign ownership percentage still has to comply with the foreign ownership restrictions of no more than 10 acres. A resident person is defined in section 76(j), and the term Saskatchewan resident is no longer relevant. The term resident person will be defined in regulations, and residency is currently determined at the national level.

## **32 Existing provision 86**

### **Limited partnership land holding prohibited**

**86(1)** Subject to subsection (2) and section 87, no non-resident person or non-Canadian-owned entity shall have or acquire a land holding described in subclause 76(e)(v).

(2) A non-Canadian-owned entity may apply to the board for an exemption from subsection (1).

(3) On an application pursuant to subsection (2), the board may:

- (a) grant the exemption; or
- (b) refuse the exemption.

(4) Where the board grants the exemption pursuant to subsection (3), it may impose any terms and conditions that it considers appropriate on the exemption.

1993, c.51, s.12; 2002, c.55, s.12.

### **Explanation**

This section is being repealed as it is no longer necessary. The new clause 76(e)(v) now includes any interest in limited partnerships with land holdings, as a land holding, and therefore subject to farmland ownership rules.

## **32 Existing provision 87**

### **Exemption, disposal**

**87(1)** Subsection 86(1) does not apply to a non-resident person who or a non-Canadian-owned entity that held a land holding described in subclause 76(e) (v) as at May 24, 1983.

(2) Where a non-resident person has a land holding in contravention of subsection 86(1) that he or she held as a resident person on May 24, 1983, the non-resident person has five years from the date that he or she becomes a non-resident person to comply with subsection 86(1).

(3) If a non-Canadian-owned entity has a land holding in contravention of subsection 86(1) that the non-Canadian-owned entity held as a Canadian-owned entity on May 24, 1983, the non-Canadian-owned entity must comply with subsection 86(1):

- (a) within one year after becoming a non-Canadian-owned entity; or
- (b) within any greater period that the board may allow.

(4) **Repealed.** 2002, c.55, s.13.

1993, c.51, s.12; 2002, c.55, s.13.

### **Explanation**

This section is date specific (ie. May 24, 1983) and is no longer required. Disposals of excess land holdings are handled under section 85(1), and authority for board exemptions are contained in section 91(1).

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### **Existing provision 89**

#### **Acquisition by certain persons prohibited**

**89(1)** No person shall acquire a land holding on behalf of a non-resident person or a non-Canadian-owned entity where that acquisition of the land holding by the non-resident person or non-Canadian-owned entity would be in contravention of this Part.

(2) Where, in the opinion of the board, a person is in violation of subsection (1), the board may issue an order pursuant to section 94 to that person.

(a) – (d) None

(3) For the purposes of this section, “**land holding**” includes farm land or any interest in farm land held by way of security for a debt or other obligation.

(4) None

1993, c.51, s.12; 2002, c.55, s.15.

### **Explanation**

New provisions in legislation are being added that specifically prohibit pension plans, administrators of pension plans, and trusts (with greater than 10 beneficiaries), from having a land holding. As well, amendments allow for regulations to define other persons ineligible to acquire a land holding.

33

### **Existing provision 90**

#### **Disclosure of land holdings by entities**

**90(1)** For the purpose of ensuring compliance with this Part, the board may direct any person, other than an individual, that has an aggregate land holding in excess of 10 acres to deliver to the board a disclosure statement in the form prescribed in the regulations within 60 days after that request.

(2) A person who fails to deliver to the board a disclosure statement as required by this section is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000.

(3) None

2002, c.55, s.16.

### **Explanation**

The amendment replaces the existing section requiring disclosure of land holdings, with a new section on statutory declarations for land holdings. This will provide the Board with the discretion to request a statutory declaration from any farmland owners. Regulations will detail the matter or information to be contained in the declaration. This provision will assist the Board to ensure compliance with the ownership provisions of the Act.



**34**     **Existing provision 92**  
**Compliance required**

**92** Where the board has imposed terms or conditions pursuant to this Part on an exemption, consent or other order:

- (a) no person who is the subject of the exemption, consent or order shall fail to comply with those terms and conditions; and
- (b) if the person mentioned in clause (a) fails to comply with the terms and conditions, the exemption, consent or order is deemed to be cancelled.

1993, c.51, s.12.

**Explanation**

Update wording of provision to clearly require a person to comply with an order, and any terms and conditions, of the Board.

**34**     **None**  
**92.1**

**Explanation**

The new provision will put the onus on the person purchasing farmland to provide the required proof to the Board that the person is in compliance with the Act.

**34**     **Existing provision 93**  
**Offences and penalties**

**93(1)** An individual who contravenes any provision of this Part or the regulations for which no penalty is prescribed is guilty of an offence and is liable on summary conviction to:

- (a) a fine of not more than \$10,000;
- (b) imprisonment for a term of not more than six months; or
- (c) both the fine mentioned in clause (a) and imprisonment mentioned in clause (b).

(2) A corporation that contravenes any provision of this Part or the regulations for which no penalty is prescribed is guilty of an offence and is liable on summary conviction to a fine of not more than \$100,000.

(3) Where a corporation has committed an offence against this Part, every officer, director or agent of the corporation who directed, authorized, assented to or acquiesced or participated in the commission of the offence is guilty of an offence and is liable on summary conviction to:

- (a) a fine of not more than \$10,000;
- (b) imprisonment for a term of not more than six months; or
- (c) both the fine mentioned in clause (a) and imprisonment mentioned in clause (b);

whether or not the corporation has been prosecuted or convicted.

(4) No prosecution for an offence pursuant to this Part is to be commenced after two years from the day of the commission of the alleged offence.

1993, c.51, s.12.

**Explanation**

The amendment will increase fines from \$10,000 to \$50,000 for individuals and from \$100,000 to \$500,000 for persons other than individuals. The fine levels are to act as a severe deterrent to non-compliance. As well, directors, officers or agents liability now comes under the \$500,000 limit for offences.

**35**     **None**  
**93.1**

**Explanation**

A new section is being added to allow the Board to impose a fine on a person contravening the legislation. Examples where penalties may be imposed are failure to provide proof of residency or information on source of financing.

**36**     **Existing provision 95**  
**Investigation**  
**95(2.1) None**

**Explanation**

The new subsection allows the Board or person authorized by the Board to conduct a hearing at an appropriate time and location in Saskatchewan.

**37**     **Existing provision 97**  
**Appeal**

**97(1)** A person dissatisfied with an order of the board pursuant to section 94 may, within 30 days after service of a copy of the board's order on that person, appeal to a judge of the court who, on hearing the appeal, may:

(g) make any other order that to the judge seems just.

(2) An appeal pursuant to this section shall be by notice of motion.

1993, c.51, s.12; 2002, c.55, s.18.

**Explanation**

The amendment clarifies wording as to what the judge considers just, and that an appeal must originate with an application.

**38**     **Existing provision 100**  
**Regulations**

**100** The Lieutenant Governor in Council may make regulations:

(c) designating the kinds and types of shares in a corporation that shall constitute a land holding for the purposes of subclause 76(e)(iv);

(g) – (o) None

1993, c.51, s.12; 2002, c.55, s.20.

### **Explanation**

The amendment removes clause (c) as this is covered under new clause 100(i)(iii). Additional regulation making authorities are added for specific sections identified in these amendments.

39

### **Existing provision 103**

PART VII

#### **General Provisions**

#### **Service of documents**

**103**(1) Where any notice or document is required by this Act to be served, the notice or document may be served:

- (a) personally by delivery of a copy of the document to the person to be served; or
- (b) by mailing a copy of the document to the person to be served by registered mail.
- (c) None

(2) Notwithstanding subsection (1), a notice or document may be served on a person by leaving a copy with his lawyer if the lawyer accepts service by signing his name on a true copy of the document indicating that he is the solicitor for that person.

(3) Where service is made by registered mail, service is deemed to have been effected:

- (a) on the delivery date shown on the signed post office acknowledgment of receipt card; or
- (b) if the card is not dated, on the date the signed post office acknowledgment of receipt card is returned to the sender.

(4) Where service by registered mail is authorized, a post office receipt card, purporting to be signed by or on behalf of the addressee, attached to the affidavit of service shall be *prima facie* proof of service.

1988-89, c.S-17.1, s.103.

### **Explanation**

The amendment is to update the requirements for service of documents as per current legislation standards.

40

### **Existing provision 104**

#### **Crown bound**

**104** (3) The Farm Credit Corporation constituted pursuant to the *Farm Credit Act* (Canada), as amended from time to time, is bound by this Act.

1988-89, c.S-17.1, s.104.

### **Explanation**

The amendment is to update the name change of federal legislation and change of the name of Farm Credit Corporation to Farm Credit Canada.

**41**     **Existing provision 109**  
**Regulations**

**109** The Lieutenant Governor in Council may make regulations:

(a.1) None

(e.1) None

(f) prescribing any other matter or thing that is required to be prescribed in the regulations.

(g) None

1988-89, c.S-17.1, s.109; 1992, c.74, s.20; 1993,  
c.51, s.16; 2010, c.E-9.22, s.239.

**Explanation**

Provide authority to make regulations to further define new types of security documents as mortgages or agreements, to define other methods of serving notices and documents, and any other matter in the Act requiring regulations. This is consistent with amendments to clause 2(1)(o) and new clause 103(1)(c).

**42**     This Act comes into force on proclamation.

Prepared by the Ministry of Agriculture