

1975 Bill 63
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 63

THE FARM IMPLEMENT AMENDMENT ACT, 1975

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Third Reading

BILL 63

1975

(Second Session)

THE FARM IMPLEMENT AMENDMENT ACT, 1975

(Assented to _____, 1975)

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

1. *The Farm Implement Act is hereby amended.*
2. *Section 2 is amended*
 - (a) *by adding after clause (b) the following clause:*
 - (b1) "Fund" means the Implement Dealers' Security Fund;
 - (b) *by adding after clause (d) the following clause:*
 - (d1) "sale agreement" includes a conditional sale agreement or a bill of sale;
3. *Section 19 is amended by striking out clauses (a) and (b) and by substituting therefor the following:*
 - (a) prescribing the form or content or both of sale agreements used in respect of the sale of farm implements by a dealer,
 - (b) governing the use of sale agreements,
 - (b1) prescribing the terms to be contained in sale agreements,
 - (b2) prohibiting the use of sale agreements other than those prescribed by regulations made under clauses (a) and (b) or either of them,
4. *The following section is added after section 19:*

19.1 (1) Where a person enters into an agreement with a dealer for the purchase of a farm implement and, in respect of that agreement, that dealer uses a sale agreement other than that prescribed by the regulations made under section 19, that agreement is voidable at the option of that person who entered into that agreement with that dealer.

(2) Subsection (1) only applies where a regulation has been made under section 19 prohibiting the use of sale agreements other than those prescribed by regulation.

Explanatory Notes

1. This Bill will amend chapter 136 of the Revised Statutes of Alberta 1970.

2. Defines "Fund" and "sale agreement" for the purposes of this Act.

3. Regulations governing sale agreements.

4. Agreements which are voidable.

5. *Section 24 is amended*

- (a) *by striking out subsection (1) and by substituting therefor the following:*

24. (1) No person shall carry on the business of a vendor unless he is licensed under this section as a vendor.

- (b) *as to subsection (2) by striking out the word "Act" and by substituting therefor the word "section", and*
(c) *by striking out subsections (4) and (5).*

6. *The following sections are added after section 24:*

25. Where security given under section 24 is forfeited, the amount of that security becomes due and owing as a debt due the Crown in right of Alberta.

26. Where the security furnished by a vendor has been forfeited and the proceeds paid to the Crown in right of Alberta, the Minister may use those proceeds to compensate a person who

- (a) has entered into a transaction with that vendor whereby that vendor is to furnish to that person a farm implement or service in respect of a farm implement,
(b) has, in respect of that transaction, paid moneys to that vendor,
(c) has not been repaid those moneys upon that vendor failing to furnish the farm implement or the service, service,
(d) has, with respect to those unpaid moneys,
(i) obtained a judgment against that vendor which remains unsatisfied 30 days after that judgment becomes final by reason of lapse of time or having been confirmed by the highest court to which an appeal may be taken, or
(ii) established his claim under the *Bankruptcy Act* (Canada),
and
(e) has established to the satisfaction of the Minister that the amount owing cannot be collected from that vendor.

27. (1) No person shall carry on the business of a dealer unless he is licensed under this section as a dealer.

5. Section 24 presently reads:

24. (1) No person shall
- (a) carry on the business of a dealer unless he is the holder of a dealer's licence, and
 - (b) after December 31, 1973, carry on the business of a vendor unless he is the holder of a vendor's licence
- issued to him by or on behalf of the Minister under this Act and the regulations.
- (2) A licence shall not be issued under this Act unless the applicant furnishes to the Minister security in favor of the Crown in right of Alberta
- (a) in a form acceptable to the Minister, and
 - (b) in the amount of \$10,000 or such greater amount as the regulations require or as the Minister may in any particular case require.
- (3) The Minister may at any time require a licensee to furnish security in a greater amount than that already furnished.
- (4) Where a security furnished under this section is forfeited, the proceeds from the security may be used to the benefit of persons who have claims against the licensee for the payment of money owing to them by the licensee under this Act, the regulations or any agreement entered into pursuant to this Act or the regulations.
- 5) The Lieutenant Governor in Council may make regulations:
- (a) governing applications for dealers' licences and vendors' licences or renewals thereof and the requirements to be met by the applicants therefor;
 - (b) prescribing the fees to be paid upon applications for, or for the issue of, a licence or a renewal thereof;
 - (c) designating the persons who may issue licences on behalf of the Minister;
 - (d) governing the issue of licences and the duration of licences or renewals thereof;
 - (e) prescribing the duties of and services to be performed by holders of licences;
 - (f) prescribing the circumstances under which a licence may be suspended or cancelled by the Minister or under which a renewal of a licence may be refused;
 - (g) prescribing the duties of the holder of a licence that has been suspended or cancelled or has terminated and not been renewed;
 - (h) providing for the reinstatement of a licence that has been suspended or cancelled;
 - (i) prescribing conditions upon which security will be forfeited;
 - (j) setting forth the rights of the Crown in right of Alberta with respect to security furnished under this section;
 - (k) providing for
 - (i) the filing of claims by claimants against the security furnished by a licensee,
 - (ii) the manner of proving the claims,
 - (iii) the conditions on which the proceeds of the security are to be used to satisfy the claims filed, and
 - (iv) the pro rata payment of claims where the proceeds of the security are insufficient to meet all claims;
 - (l) requiring vendors to file with the Minister, or persons designated by him, statements showing the dealers who obtain, or are likely to obtain, farm implements or parts from or through the vendor;
 - (m) authorizing the Minister to require any vendor to furnish to the Minister on request
 - (i) information relating to the farm implements manufactured or supplied by the vendor,
 - (ii) lists, by category or group, of parts maintained in stock in Alberta for the vendor's farm implements,
 - (iii) a statement or true copy of the current published suggested retail prices for its implements and parts,
 - (iv) copies of specific sale agreements of farm implements, and
 - (v) any other specified information pertaining to the vendor's business in Alberta
- and
- (n) generally, for carrying out the purposes and intent of this Act.

6. (a) Sections 25 and 26 provide that Crown be paid the proceeds of the forfeited security and that the proceeds be used to compensate persons who have suffered losses arising out of certain transactions with vendors.

(b) Sections 27, 28 and 29 provide for the licensing of dealers, establishment of the "Implement Dealers' Security Fund" and the payment of compensation from that Fund.

(c) Section 30 provides for the making of regulations.

(2) A person shall not be issued a dealer's licence unless that person has paid

- (a) the licence fee, and
- (b) the levy for the Fund,

in the amounts prescribed by regulation.

28. (1) There shall be a fund called the "Implement Dealers' Security Fund".

(2) The Fund shall be held by the Provincial Treasurer who shall maintain a separate accounting record of the Fund.

(3) The Provincial Treasurer shall from time to time, upon the direction of the Lieutenant Governor in Council, advance to the Fund from the General Revenue Fund such sums as may be required for the purpose of the Fund.

(4) The amount of money maintained by the Provincial Treasurer in the Fund from advances made under subsection (3) shall not exceed \$250,000.

(5) All levies received under section 27, subsection (2), clause (b) shall be paid into the Fund.

(6) Where the amount of money maintained in or on behalf of the Fund received from levies paid under section 27, subsection (2), clause (b) exceeds \$250,000, the Lieutenant Governor in Council may make regulations suspending the operation of section 27, subsection (2), clause (b).

(7) The Provincial Treasurer may from time to time, upon the direction of the Lieutenant Governor in Council, pay from the Fund into the General Revenue Fund such sums as may be required to repay to the General Revenue Fund the advances made under subsection (3).

(8) Where the Lieutenant Governor in Council advances money to the Fund under subsection (3), he may prescribe terms and conditions respecting the repayment of that money to the General Revenue Fund.

29. (1) Where a person

- (a) has entered into a transaction with a dealer whereby that dealer is to furnish to that person a farm implement or service in respect of a farm implement,
- (b) has, in respect of that transaction, paid moneys to that dealer,
- (c) has not been repaid those moneys upon that dealer failing to furnish the farm implement or the service, and

- (d) has, with respect to those unpaid moneys,
 - (i) obtained a judgment against that dealer which remains unsatisfied 30 days after that judgment becomes final by reason of lapse of time or having been confirmed by the highest court to which an appeal may be taken, or
 - (ii) established his claim under the *Bankruptcy Act* (Canada),

that person shall

- (e) upon application to the Minister, and
- (f) upon establishing to the satisfaction of the Minister that he cannot obtain from that dealer the amount owing,

be paid compensation from the Fund for those moneys which remain unpaid.

(2) The amount of compensation paid from the Fund to a person shall not exceed the amount prescribed by regulation.

30. The Lieutenant Governor in Council may make regulations

- (a) governing applications for dealers' licences and vendors' licences or renewals thereof and the requirements to be met by the applicants therefor;
- (b) prescribing the fees to be paid upon applications for, or for the issue of, a licence or a renewal thereof;
- (c) prescribing the amounts of the levies to be paid into the Fund;
- (d) designating the persons who may issue licences on behalf of the Minister;
- (e) governing the issue of licences and the duration of licences or renewals thereof;
- (f) prescribing the duties of and services to be performed by holders of licences;
- (g) prescribing the circumstances under which a licence may be suspended or cancelled by the Minister or under which a renewal of a licence may be refused;
- (h) prescribing the duties of the holder of a licence that has been suspended or cancelled or has terminated and not been renewed;
- (i) providing for the reinstatement of a licence that has been suspended or cancelled;
- (j) prescribing conditions upon which security given under section 24 will be forfeited;

- (k) governing, with respect to security given under section 24,
 - (i) the filing of claims,
 - (ii) the manner of proving the claims, and
 - (iii) the pro rata payment of claims where the proceeds of the security is insufficient to meet all claims;
- (l) governing, with respect to the Fund,
 - (i) applications for compensation,
 - (ii) the amounts of compensation which may be paid out of the Fund, and
 - (iii) the pro rata payment of claims where the proceeds of the Fund are insufficient to meet all claims;
- (m) requiring vendors to file with the Minister, or persons designated by him, statements showing the dealers who obtain, or are likely to obtain, farm implements or parts from or through the vendor;
- (n) authorizing the Minister to require any vendor to furnish to the Minister on request
 - (i) information relating to the farm implements manufactured or supplied by the vendor,
 - (ii) lists, by category or group, of parts maintained in stock in Alberta for the vendor's farm implements,
 - (iii) a statement or true copy of the current published suggested retail prices for its implements and parts,
 - (iv) copies of specific sale agreements of farm implements, and
 - (v) any other specified information pertaining to the vendor's business in Alberta.

7. This Act comes into force on a date to be fixed by Proclamation.