

1977 BILL 61

---

---

Third Session, 18th Legislature, 26 Elizabeth II

---

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 61**

**THE FARM IMPLEMENT AMENDMENT ACT, 1977**

---

---

THE MINISTER OF AGRICULTURE

---

---

First Reading .....

Second Reading .....

Third Reading .....

Bill 61

## BILL 61

1977

### THE FARM IMPLEMENT AMENDMENT ACT, 1977

(Assented to \_\_\_\_\_, 1977)

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

*1 The Farm Implement Act is amended by this Act.*

*2 Section 2 is amended by repealing clause (b) and substituting the following:*

(b) "farm implement" includes any implement, equipment, engine, motor, machine, combine or tractor used or intended for use in farming operations;

*3 Section 3 is amended*

*(a) as to subsection (1) by striking out "to sales" and substituting "to the sale or lease",*

*(b) as to subsection (1) by repealing clause (d) and substituting the following:*

(d) to dealers and distributors except as provided in sections 22 and 23.

*and*

*(c) by repealing subsection (2) and substituting the following:*

(2) The Lieutenant Governor in Council may make regulations exempting any farm implement or class of farm implements from all or any of the provisions of this Act.

(3) *The Direct Sales Cancellation Act* does not apply to the sale of a farm implement except where that implement is exempted from the provisions of this Act pursuant to subsection (2).

## Explanatory Notes

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

**2** Section 2(b) presently reads:

*(b) "farm implement" means any implement or machine having the retail sale price of \$1,000 or more and used or intended for use in farming operations, but does not include a motor vehicle as defined in The Highway Traffic Act;*

**3** Section 3 presently reads:

*3 (1) This Act does not apply to sales of farm implements*

*(a) by farmers*

*(i) by auction sale, or*

*(ii) in the ordinary course of their farming operations,*

*or*

*(b) by executors or administrators, or*

*(c) by public officials acting under judicial process, or*

*(d) except as provided in sections 22 and 23, to vendors or dealers.*

*(2) The Direct Sales Cancellation Act does not apply to sales of farm implements made by vendors or dealers in accordance with this Act.*

4 Section 4(1.1) is amended

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

(b) a new farm implement, other than a tractor, is sold which

(i) is an engine or motor, or

(ii) has an engine or motor as a composite part of it,

the sale agreement shall state the net horsepower of the farm implement,

and

(b) by striking out “, or the engine or motor in that farm implement,” and by substituting “or farm implement”.

5 Section 5 is amended by repealing subsection (2) and substituting the following:

(2) The warranties provided for by this section are deemed to apply for a period of

(a) one year from the date that the new farm implement is first used within the first normal season of use by the purchaser for its intended purpose, or

(b) 2 years from the date of delivery of the new farm implement to the purchaser,

whichever period first occurs.

(3) Notwithstanding subsection (2), where the new farm implement is a tractor, engine, motor, combine or a self-propelled farm implement, the period of warranty

(a) shall be

(i) 1000 hours of actual use where the new farm implement is a tractor, engine or motor, or

(ii) 500 hours of actual use where the new farm implement is a combine or a self-propelled farm implement other than a tractor,

or

(b) shall be 2 years from the date that the new farm implement is first used within the first normal season of use by the purchaser for its intended purpose, or

**4** Section 4(1.1) presently reads:

*(1.1) Where*

*(a) a new tractor is sold, the sale agreement shall state the drawbar horsepower or the power takeoff horsepower, and*

*(b) a new farm implement, other than a tractor, is sold which has as a composite part of it a new engine or motor, the sale agreement shall state the belt horsepower,*

*and that tractor, or the engine or motor in that farm implement, shall be deemed to be warranted as being capable of developing the horsepower as stated in the sales agreement if that tractor or farm implement is properly operated and maintained and used under reasonable operating conditions.*

**5** Extends the warranty period on engines, motors and self propelled farm implements. Section 5(2) reads:

*(2) The warranties provided for by this section shall be deemed to apply for a period of time of not less than one year from the date that the new farm implement is first used within the first normal season of use by the purchaser for its intended purpose and not from any earlier date.*

(c) shall be 3 years from the date of delivery of the new farm implement to the purchaser,

whichever period occurs first.

*6 Section 6 is amended by repealing subsection (1) and substituting the following:*

**6** (1) Where a new farm implement used under reasonable operating conditions and with proper use and maintenance fails to perform the work for which it is intended in a satisfactory manner during

(a) any of the first 10 days of actual use of the farm implement, whether or not those days are consecutive, or

(b) the first 100 hours of actual use of the farm implement, whether or not that period is continuous,

from the time the implement is first used within the first normal season of use after the implement is delivered to the purchaser, whichever period occurs first, the purchaser may give notice within that season by registered mail to the distributor, the dealer and the Minister of the farm implement's failure to perform that work.

(1.1) Upon receiving notice under subsection (1), the dealer or distributor shall

(a) not later than 7 days after the date on which he received the notice, if reasonable operating conditions exist for that farm implement during that 7-day period, or

(b) not later than 7 days during which reasonable operating conditions exist for that farm implement after the date on which he received the notice,

endeavour to make the farm implement perform in a satisfactory manner.

(1.2) Where a dealer or distributor fails to make the farm implement perform in a satisfactory manner pursuant to subsection (1.1), the dealer or distributor shall, within 48 hours after the period stated in subsection (1.1), provide the purchaser with a satisfactory substitute farm implement for the purchaser's use until his implement is made to perform in a satisfactory manner.

*7 The following is added after section 6:*

**6.1** (1) Where a warranty is provided for by this Act and a dealer or distributor makes repairs to a farm implement under that warranty, the dealer or distributor shall use parts that are

**6 Section 6(1) presently reads:**

*6 (1) Where a new farm implement used under reasonable operating conditions and with proper use and maintenance fails to perform the work for which it is intended in a satisfactory manner, the purchaser may within 10 days from the date the implement is first used give notice, by registered mail, to the vendor, the dealer and the Minister of the failure to perform and the dealer or vendor shall endeavour to make the implement perform in a satisfactory manner*

*(a) not later than the seventh day after receiving the notice, given reasonable operating conditions, or*

*(b) if reasonable operating conditions do not exist following the receipt of the notice, then not later than the seventh day of reasonable operating conditions after receipt of the notice,*

*and if the dealer or vendor fails to make the implement perform in a satisfactory manner by the end of those seven days the dealer or vendor shall, within 48 hours provide the purchaser with a satisfactory substitute implement for the purchaser's use until his implement is made to perform in a satisfactory manner.*

**7 Repair of farm implement.**

new and of the standard, quality and size prescribed by the manufacturer for that farm implement.

(2) Notwithstanding subsection (1), where a dealer or distributor is authorized by the purchaser in writing to do so, the dealer or distributor may use parts other than new parts in making repairs to a farm implement under a warranty provided for by this Act.

*8 Section 7.1(1) is amended by repealing clause (a) and substituting the following:*

- (a) imposing duties and obligations upon
  - (i) distributors respecting the selling and supplying of parts to dealers in an emergency,
  - (ii) distributors and dealers respecting the time period within which parts for farm implements shall be delivered to a farmer in an emergency,
  - (iii) dealers respecting the rental of a farm implement to a farmer in an emergency, and
  - (iv) any other person respecting the purchasing and acquiring of parts and the rental of farm implements in an emergency,
- (a.1) empowering the Minister to prescribe rental rates for a farm implement rented by a dealer to a farmer in an emergency pursuant to regulations made under clause (a)(iii),

*9 Section 8 is repealed.*

*10 Section 9(2) is amended by striking out “of not less than one year” and substituting “greater than the relevant period provided by this Act”.*

**8** Section 7.1(1) presently reads:

*7.1 (1) Notwithstanding anything in this Act, the Lieutenant Governor in Council may make regulations*

*(a) imposing duties and obligations upon*

*(i) vendors respecting the selling and supplying of parts to dealers in an emergency, and*

*(ii) other persons respecting the purchasing and acquiring of parts for farm implements in an emergency,*

*(b) defining the term "emergency" for the purpose of the regulations, and*

*(c) generally, governing the selling, purchasing, supplying and acquiring of parts for farm implements in an emergency.*

**9** Consequential amendment. Section 8 presently reads:

*8 (1) Where a sale agreement or other document provides a warranty with respect to a new farm implement, that warranty shall be deemed to apply for a period of not less than one year from the date that the new farm implement is first used within the first normal season of use by the purchaser for its intended purpose and not from an earlier date notwithstanding anything contained in the sale agreement or other document.*

*(2) Nothing in subsection (1) shall be deemed to prevent a vendor or a dealer from providing for and binding himself to a warranty period of more than one year.*

**10** Section 9(2) presently reads:

*(2) Subsection (1) does not apply to any statement in so far as it limits the duration of any warranty to a period of time of not less than one year if the limitation is clearly set forth in the document setting out the warranty.*

*11 Section 10(b) is amended by striking out “machine” and by substituting “farm implement”.*

*12 Section 11(a) is amended by striking out “two” and substituting “3”.*

*13 Section 14(1) is amended by striking out “sections 5 and 7” and by substituting “sections 4, 5 and 7”.*

*14 The following is added after section 14:*

**14.1** Notwithstanding section 14, where

(a) pursuant to section 4, a sale agreement states the amount of horsepower that a farm implement is capable of developing, and

(b) in breach of the warranty provided by section 4(1.1), that farm implement is not capable of developing that amount of horsepower,

an action may not be maintained against the dealer who was a party to that sale agreement if that dealer relied in good faith on a written representation of the distributor that the farm implement was capable of developing that amount of horsepower.

*15 Section 15 is amended by repealing subsection (2).*

**11** Section 10 presently reads:

*10 A person who signs an agreement to purchase a farm implement is not bound by the agreement until*

*(a) the agreement is signed by the vendor or his dealer or by a representative authorized to bind the vendor or dealer, or*

*(b) he has taken delivery of the machine under the agreement,*

*whichever first occurs.*

**12** Consequential amendment. Section 11 presently reads:

*11 A vendor or his dealer shall*

*(a) keep a copy of every sale agreement of a farm implement entered into by him for at least two years, and*

*(b) upon the request of an inspector, produce the copy and allow the inspector to make copies thereof.*

**13** Section 14(1) presently reads:

*14 (1) The vendor of a farm implement and the dealer who sold it to the purchaser are liable to the purchaser for a breach of any of the warranties mentioned in sections 5 and 7 and the purchaser may maintain an action against any one or both of them for the breach.*

**14** Exception to section 14.

**15** Section 15(2) reads:

*(2) Without restricting any other remedies available to a purchaser, an inspector may, on the request of a purchaser, inquire into and attempt to resolve any dispute between the purchaser and a vendor or a dealer, or both, with respect to any obligation imposed upon the vendor or dealer by this Act.*

*16 The following is added after section 15:*

**15.1** (1) Without restricting any other remedies available to a purchaser, an inspector may, on the request of a purchaser, inquire into and attempt to resolve any dispute between the purchaser and a distributor or dealer, or both, with respect to any obligation imposed upon the distributor or dealer by this Act.

(2) Where an inspector is acting under subsection (1), he may request the distributor or the dealer, as the case may be, to produce those documents and books that the inspector considers necessary to his inquiry and upon being so requested the distributor or dealer, as the case may be, shall produce the documents and books and allow the inspector to make copies of them.

*17 Section 18 is amended by striking out “\$500” and substituting “\$2000”.*

*18 The following is added after section 19:*

**19.1** (1) No distributor or dealer shall sell or offer for sale a farm implement that is manufactured after December 31, 1978 unless there appears on the farm implement

- (a) the model year, or
- (b) the date of manufacture, or
- (c) the date of sale

of the farm implement as required by the regulations and in the manner prescribed by the regulations.

(2) For the purposes of this section, the Lieutenant Governor in Council may make regulations

- (a) defining the terms “model year”, “date of manufacture” and “date of sale” with respect to a farm implement or a class of farm implements, and
- (b) governing the methods by which the requirements of this section may be met.

**16** An inspector may make inquiries and inspect documents on the request of a purchaser.

**17** Section 18 presently reads:

*18 A person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$500.*

**18** Information to be affixed to farm implements.

*19 Section 20 is amended*

*(a) by adding after “serial number” wherever it appears “or the year or date required pursuant to section 19.1”, and*

*(b) as to clause (b) by adding “, year or date” after “new number”.*

*20 Section 21 is amended*

*(a) as to subsection (1) by adding “or the year or date required pursuant to section 19.1” after “serial number”, and*

*(b) as to subsections (2), (3), (4), (5) and (6) by adding “, year or date” after “serial number”.*

*21 Section 22 is amended*

*(a) as to subsection (1)(c) by adding “, or” at the end of subclause (ii) and by adding the following:*

**19** Section 20 presently reads:

*20 No person shall*

*(a) obliterate, deface, alter, render illegible, or remove, the manufacturer's serial number on a farm implement, or*

*(b) buy, sell or otherwise deal in, a farm implement if the manufacturer's serial number placed thereon has been obliterated, defaced, altered, rendered illegible, or removed, or is not readily recognizable unless a new number has, on authorization by the Minister, been stamped on the farm implement as provided in section 21.*

**20** Section 21 presently reads:

*21 (1) Where the manufacturer's serial number on a farm implement has been obliterated, defaced, altered, rendered illegible, or removed, the owner may apply to a provincial judge to make a recommendation, as provided in subsection (3).*

*(2) The provincial judge shall make an inquiry as to the ownership of the farm implement and the circumstances under which the serial number was obliterated, defaced, altered, rendered illegible, or removed, and shall hear the testimony given by or on behalf of the applicant and make such other inquiries and receive such other evidence under oath, as in the circumstances he considers necessary.*

*(3) The provincial judge, if he is satisfied that the applicant is the owner of the farm implement and that the serial number was not obliterated, defaced, altered, rendered illegible, or removed, by or on behalf of the applicant for any unlawful or fraudulent purpose,*

*(a) may recommend to the Minister, in writing signed by him, that the applicant be authorized to have a new serial number stamped on the farm implement, and*

*(b) shall send the recommendation to the Minister together with all papers and documents produced to him in support of the application and a summary of the evidence adduced at the inquiry.*

*(4) The Minister is not bound to follow the recommendation, but may make such further inquiries as he considers necessary and if he is satisfied that it is proper to do so, he may issue to the applicant a certificate authorizing him to have stamped on the farm implement such new serial number as is stated in the certificate, subject to such conditions as the Minister may prescribe.*

*(5) On receipt of the certificate the applicant may cause the new serial number stated therein to be stamped with steel dies on the farm implement in the manner prescribed in the certificate.*

*(6) Where a farm implement on which a new serial number has been stamped as provided in subsection (5) is sold, the seller shall deliver to the buyer the certificate authorizing the stamping of that new serial number.*

*(7) The applicant shall pay to the provincial judge who makes an inquiry under this section the fee prescribed in the regulations for all things done by him under this section.*

**21** Section 22 (1)(c), (d) and (e), (2) and (8)(b), (d) and (e) presently read:

(iii) a farm implement that is not a used implement and that is moved from one dealer to another dealer with the knowledge of the distributor;

*(b) as to subsection (1)(d)(ii) by striking out “subclause (ii)” and by substituting “subclause (ii) or (iii)”*,

*(c) as to subsection (1)(e)(iii) by striking out “vendor” and by substituting “dealer”*,

*(d) as to subsection (2) by adding “and attachments thereto” after “unused farm implements”*,

*(e) as to subsection (8) by repealing clause (b)*,

*(f) as to subsection (8)(d) by adding “thereto” after “attachments”*, and

*(g) as to subsection (8)(e) by striking out “attached” and by substituting “attachment thereto”*.

22 (1) *In this section and in section 23*

(c) *“unused farm implement” means*

(i) *a farm implement that is not a used implement, whether or not it has received pre-delivery services, or*

(ii) *a farm implement returned to the vendor or dealer under section 6 following the giving of a notice in respect of that implement under that section, unless that farm implement was sold to the dealer as a demonstrator and was invoiced and used by him as a demonstrator.*

(d) *“used implement” means*

(i) *a farm implement that was sold to the dealer as a demonstrator and was invoiced to him and used as a demonstrator, or*

(ii) *a farm implement (other than one referred to in clause (c), subclause (ii)) that has been operated for a distance or for a period of time in excess of that required to deliver the implement to the dealer and to enable the dealer to service, prepare and operate it for the purposes of sale.*

(e) *“unused part” means a part or parts assembly that has not been used, but does not include*

(i) *a part that has been broken or severely damaged, or*

(ii) *a parts assembly that is incomplete and cannot be completed at reasonable expense as provided for in subsection (9), clause (a), or*

(iii) *a part or parts assembly that has been removed from an implement and replaced at no cost to the vendor for parts under a modification or warranty substitution program, or*

(iv) *a seal or hose made of rubber, a gasket made of cork or a composition of materials, a seal made of leather, a liquid chemical that has deteriorated and is of limited use, or paint.*

(2) *A dealer may, within 90 days after the day an agreement expires or is terminated by the dealer or the vendor for any reason,*

(a) *personally serve on the vendor, or*

(b) *send by prepaid registered mail to the vendor,*

*a written or printed notice to purchase containing a request by the dealer that the vendor purchase all the unused farm implements and all unused parts obtained from the vendor.*

(8) *A vendor is not required to purchase*

(b) *an unused part that is not listed in the vendor’s current price list, or*

(d) *any unused farm implements, attachments or unused parts that are subject to one or more liens, charges, encumbrances or mortgages in favour of third parties in an amount in excess of the amount that the vendor would otherwise be required to pay to the dealer for them under this section, or*

(e) *any unused farm implement, attached or unused part that has not been adequately prepared for shipment in accordance with subsection (10), clause (b) within the 90-day period referred to in subsection (10), clause (a), subclause (ii) or any extension thereof under subsection (6).*

22 *Section 24 is amended*

*(a) by repealing subsection (1) and substituting the following:*

**24** (1) No person shall sell or lease or negotiate the sale or lease of a farm implement unless

(a) he is the holder of a valid dealer's licence issued under this Act, or

(b) he is the employee or agent of a dealer holding a valid dealer's licence issued under this Act.

*(b) as to subsection (5) by repealing clause (l) and substituting the following:*

(l) requiring distributors to file with the Minister or a person designated by him, statements showing

(i) the names and addresses of all dealers who obtain or are likely to obtain farm implements or parts from or through the distributor, and

(ii) the names and addresses of all manufacturers represented by the distributor,

at such times and in such manner as may be prescribed;

*and*

*(c) as to subsection (5)(m)(v) by striking out "vendor's business" and substituting "distributor's farm implement business".*

23 *The following section is added after section 24:*

**25** (1) Any notice required to be given under this Act or the regulations by a person to a dealer or distributor is sufficiently given if delivered personally to the place of business of the dealer or distributor or sent by registered mail to the latest address of that dealer or distributor according to the records of the Minister.

(2) Notwithstanding subsection (1), a notice to a corporation may be given in the manner permitted under section 289 of *The Companies Act*.

**24** (1) *In the following provisions "vendor" is struck out wherever it appears and "distributor" is substituted:*

**22** Section 24(1) and (5) (l) and (m) presently read:

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.*

*(5) The Lieutenant Governor in Council may make regulations:*

*(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;*

**23** Service of notice on a dealer or distributor.

**24** Substitutes the term "distributor" for the term "vendor".

section 2(e);  
section 4 (1) (b) and (f);  
section 6;  
section 7;  
section 8(2);  
section 9(1);  
section 10 (a);  
section 11;  
section 12;  
section 13;  
section 14;  
section 15;  
section 22;  
section 23;  
section 23.1;  
section 24(1) (b) and (5) (m).

*(2) In the following provisions “vendors” is struck out wherever it appears and “distributors” is substituted:*

section 3(1) (d) and (2);  
section 12.

*(3) In the following provisions “vendor’s” is struck out wherever it appears and “distributor’s” is substituted:*

section 22(6) (b) and (8);  
section 24(1) (b) and (5) (m) (ii).

*(4) Section 24(5)(a) is amended by striking out “vendors” and substituting “distributors”.*

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

