



HOW THE FARM IMPLEMENTS ACT PROTECTS YOU

Your rights and responsibilities relating to farm machinery

Revised January 2010

WHAT IS THE PURPOSE OF THE FARM IMPLEMENTS ACT?



In response to a joint request from farmers and farm machinery dealers, the Government of Ontario established The *Farm Implements Act* in 1990. Its dual purpose is to improve safety and protect the substantial investments that farmers and dealers make in farm machinery.



The act enables farmers to have confidence in the quality, reliability and safety of new farm machinery when purchasing or leasing, and in the service they can expect from their dealers and manufacturers. It gives dealers the assurance that in the event the dealership contract is terminated, they will not be left with an expensive stock of inventory. It saves manufacturers from having to pay off expensive settlements in machinery disputes simply to preserve their public image. It promotes cooperation and good relations between farmers, dealers and manufacturers.



The act is administered by the Environmental Management Branch of the Ministry of Agriculture, Food and Rural Affairs (OMAFRA). The ministry establishes and enforces safety standards and regulations, to improve machinery safety and to help reduce farm fatalities and injuries.

OMAFRA's Environmental Management Branch also helps to resolve disputes between farmers, dealers and distributors. If conflict resolution fails, the parties can apply to the Appeal Tribunal for a hearing. The tribunal panel that hears the case includes; farmers and representatives

This booklet provides answers to some of your questions about the act and the farm implements program. For more specific information, please refer to the *Farm Implements Act* and its two regulations, Reg. 369 - General and Reg 123/06 - Dealership Agreements. You can download them from the ministry's farm mechanization website at:

www.ontario.ca/farmimplements

You can also get them from:

Publications Ontario

50 Grosvenor Street

Toronto, ON M7A 1N8

(416) 326-5300 or toll free 1-800-668-9938

For more information, please contact:

The Agricultural Information Contact Centre at 1-877-424-1300; or the website:

www.ontario.ca/farmimplements

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UNDER THE ACT, WHAT IS CONSIDERED “FARM MACHINERY”?

In this brochure, the terms “farm machinery”, “farm equipment” and “farm implement” are interchangeable. The act refers to all of them as “farm implements”. The act defines them as any equipment or machinery designed and used for agriculture or horticulture. This includes; farmstead equipment systems, such as milking, ventilation, feeding, or manure handling systems.

It does not include:

- farm implements (or systems) with a manufacturer's list price less than \$3,500
- tractors developing 20 horsepower (15 kW) or less
- motor vehicles as defined in the *Highway Traffic Act*
- lawn and garden equipment
- tires
- drainage machinery.

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HOW DOES THE ACT BENEFIT ME AS A FARMER?

The following pages describe the benefits that the act provides you, regarding:

- machinery purchases
- leased machinery
- spare parts
- warranties
- machinery performance
- machinery safety
- resolving disputes with dealers and distributors.



The act provides you with a range of benefits including:

- machinery safety
- warranties
- resolution of complaints about farm machinery
- resolution of general farm machinery issues.

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HOW ARE THE PURCHASES OF NEW MACHINERY PROTECTED?

New machinery purchases are protected under the act in the following ways:

- All new farm implements that cost over \$3,500 have by law, a standard minimum one-year warranty
- Farmers can return new farm implements if they are defective
- Dealers must make sure that the farm implements they sell (new and used) have all necessary safety shields and decals
- Dealers must supply operator's manuals with new farm implements.

Q HOW ABOUT LEASED EQUIPMENT?

If you lease farm machinery, you get the same protection under the act as if you had purchased the machinery.

Q WHAT ABOUT SPARE PARTS?

Under the act,

- When a farmer purchases a new farm implement, the distributor and dealer must supply spare parts for ten years
- Emergency spare parts are parts needed when an implement breaks down during its season of use. The distributor must supply these spare parts within three working days. If the distributor fails, he/she may have to cover half the cost of renting replacement

Q ARE ALL MACHINERY DISPUTES COVERED?

Conflict resolution is available for all disputes about issues that are covered in the act. These include safety, performance and warranty of new machinery, parts supply, repairs and dealer termination.

Q WHAT IS THE BENEFIT OF A TRIBUNAL HEARING?

Tribunal hearings provide farmers with a forum that is considerably less expensive, time-consuming or formal than the courts. The Appeal Tribunal panel is also more knowledgeable about agriculture and farm implements.

Q HOW DOES THE ACT HELP FARMERS WHO HAVE COMPLAINTS ABOUT THEIR MACHINERY?

The act gives farmers:

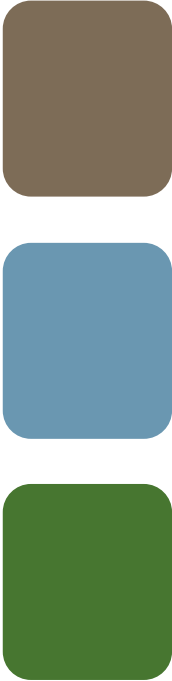
- A system of redress if a dealer does not satisfactorily repair an implement
- A complaint resolution service to help resolve disputes between farmers, dealers and manufacturers
- Tribunal hearings to rule on disputes that are not resolved by conflict resolution



**Q****WHO SITS ON THE TRIBUNAL?**

The Appeal Tribunal consists of farmers representing all aspects of agriculture in the province. A three-member panel hears each case. For farm implement cases, the panel includes members who are dealers or distributors.

**Q****How does the act affect dealer contracts?**

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- The act enables you to return inventory to your distributor when your dealership contract ends
 - It establishes standard farm implement safety requirements that reduce your risk of lawsuits arising from farm implement accidents
 - The act makes a dispute resolution system available to resolve issues with farmers and manufacturers
 - It provides Tribunal hearings to rule on disputes that cannot be solved through conflict resolution
 - It provides a forum for discussing and resolving broad dealer concerns between manufacturer and farmer organizations and government
 - Dealer exclusivity clauses have been eliminated from dealer/distributor contracts. These are clauses that limit the brands of farm machinery a dealer could sell. The change means that dealers are free to offer farmers a broad range of farm machinery. It also means that dealers can continue to support small Ontario manufacturers
 - In 2006, the government established a new regulation under the act, Regulation 123/06. This regulation protects dealers from arbitrary termination of their distributor contracts
 - Amendments to the act have clarified the process for dealers to return parts inventories to distributors. This has resolved some misunderstandings between dealers and manufacturers
 - As issues arise, industry organizations will continue to work together to resolve them

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DO MANUFACTURERS AND DISTRIBUTORS BENEFIT FROM THE ACT?

Manufacturers and distributors also benefit from the complaint resolution service provided under the act. Apart from the savings in legal costs and time associated with court cases, manufacturers and distributors get an additional benefit. As a respected impartial arbitrator, the ministry saves manufacturers and distributors the cost of paying burdensome settlements solely to preserve their public image.

Through ministry consultations, manufacturers and distributors have a forum for discussing and resolving industry concerns such as farm implement safety, warranty compensation, dealer-distributor agreements, return of parts inventories, etc.

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HOW DOES THE ACT AFFECT THE SALE OF FARM IMPLEMENTS?

A sale agreement between a purchaser and a dealer must be documented and contain:

- the description of the farm implement and any trade-in
- the purchase price and any trade-in allowance
- the date of delivery
- the names and addresses of the purchaser, dealer and distributor
- the nature and duration of the warranties
- other information as required by the act.



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WHAT ARE THE MINIMUM WARRANTIES ESTABLISHED BY THE ACT?

Every new farm implement is warranted to be properly constructed and to perform to the manufacturer's specifications. Also, a new farm implement is warranted to develop the power stated in the sale agreement. These warranties are for the following periods:

- for tractors, the lesser of one year or 1,000 hours of operation
- for combines, the lesser of one year or 500 hours of operation
- for all other farm implements, one year
- for new repair parts, 90 days warranty that parts will be free from defects.

Distributors and manufacturers may, and often do, offer longer warranties, especially for tractors and combines.

Q**WHO IS RESPONSIBLE FOR WARRANTIES?**

The distributor is responsible for honouring the warranties on power and quality.

Q**WHAT IS THE ROLE OF THE DEALER CONCERNING WARRANTIES?**

The dealer carries out warranty repairs with the approval and direction of the distributor.

Q**WHAT ABOUT THE SUPPLY OF PARTS?**

For every new farm implement sold, parts must be available for 10 years after the sale.

Q**WHAT HAPPENS IF MY FARM IMPLEMENT BREAKS DOWN DURING THE SEASON AND PARTS ARE NOT AVAILABLE?**

You must notify the dealer in writing and the dealer must order the repair parts from the distributor.

The distributor must have the parts at the dealership within three working days, unless delayed by circumstances beyond their control.

**Q****WHAT HAPPENS IF THE DISTRIBUTOR OR DEALER DOES NOT SUPPLY THE PARTS WITHIN THE SPECIFIED TIME?**

If this happens, the distributor or dealer must either provide, or pay for, a substitute farm implement at half the normal rental rate.



Q WHAT SHOULD I DO IF MY NEW FARM IMPLEMENT DOES NOT PERFORM SATISFACTORILY?

You should inform the dealer in writing within 10 days of finding the defect.

You can return a defective new farm implement to the dealer if:

- You started using the unit within 12 months of purchasing it
- You found the defect within the first 10 days or 100 hours of actual use
- You informed the dealer in writing within 10 days of finding the defect
- The dealer or distributor was unable to fix the unit within 14 working days.

After the first four working days, the dealer or distributor should give you a satisfactory substitute to use while they continue to work on your unit.

If the dealer and distributor are still unable to repair the unit after 14 working days, the distributor must either replace the unit or refund the purchase price. The refund will be discounted according to actual use of the unit.

Q WHAT IF MY FARM IMPLEMENT DOES NOT PERFORM AND MY DEALER HAS GONE OUT OF BUSINESS?

You should send written notice of the defective implement to the Farm Implements Act Program by contacting:

Farm Implements Act Program
Environmental Management Branch
Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA)
1 Stone Road West, 3rd Floor
Guelph, Ontario N1G 4Y2

OMAFRA will inform the distributor.



Q HOW DOES THE ACT IMPROVE THE SAFETY OF THE FARM IMPLEMENTS ON THE MARKET?

To protect people from injury, distributors and dealers must ensure that the farm implements they sell have appropriate shields and/or guards. Appropriate safety decals must be in place to provide critical safety information to the user. The purchaser must be given an operator's manual and relevant safety instructions. Under the act, the dealer must get the purchaser's written confirmation that the dealer met these safety requirements.

The act authorizes the Minister to establish safety standards and regulations. The act empowers the Director to enforce these standards and regulations.

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WHAT NEW SAFETY STANDARDS OR REGULATIONS HAVE BEEN ESTABLISHED UNDER THIS ACT AND PROGRAM?

The Farm Implements Act program was instrumental in establishing one new Canadian and American standard and for amending another.

In response to three fatalities in Ontario from front end loader accidents, program staff have worked with the Canadian Standard Association (CSA) and the American Society for Agricultural and Biological Engineers (ASABE) to develop a new standard for front end loader safety. This resulted in the development of these standards:

- (Canada) CSA M682: Agricultural Front End Loaders—Safety Requirements
- (U.S.) ASABE S583: Safety for Agricultural Front End Loaders.



Ontario farmers found that if a tractor was towing a heavy wagon, the tractor's parking brake would not hold on sloping terrain. Program staff worked with the CSA and the ASABE to change the ASABE tractor brake standard to resolve this challenge.

In August 2000, three people were killed when they entered the tank of a liquid manure spreader. Following a Coroner's Inquest, regulations were established under the Act to change the design of tank openings so that people can no longer enter.

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WHAT ABOUT ROLL BARS ON TRACTORS?

All new tractors sold by Ontario dealers must be equipped with roll-over protective structures (ROPS). This requirement also applies to used tractors manufactured after January 1, 1992.

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WHAT ABOUT THE SAFETY OF USED FARM IMPLEMENTS?

Used farm implements sold by dealers must be equipped with safety shields and/or guards. The farm implement industry developed generic safety decal packages for major types of farm implements (tractors, combines, balers, harvesters, etc.). Dealers must use these if original decals are not available.

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DO DEALERS HAVE TO SUPPLY OPERATOR'S MANUALS FOR USED FARM IMPLEMENTS?

If an operator's manual is available for the used farm implement being sold, the dealer must provide one. Generic safety manuals are available for certain classes of farm implements such as tractors and loaders. If neither an operator's manual nor a generic safety manual are available, the dealer can sell the used farm implement without one.

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CAN I BUY A USED FARM IMPLEMENT WITHOUT SHIELDS OR DECALS?

A dealer can sell you a used farm implement without safety shields, guards or decals only if you sign a statement that the implement will be used for parts only.

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DO DEALERS AND DISTRIBUTORS HAVE TO BE REGISTERED?

To operate in Ontario, all dealers and distributors must be registered with the ministry.

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WHAT IS THE PROCEDURE FOR FILING A COMPLAINT UNDER THE ACT?

You can file a complaint by:

Phone: 519-826-4049

Fax: 519-826-3259

E-mail: finbar.desir@ontario.ca

You can download a complaint form from the website found at:

www.ontario.ca/farmimplements
and fax it, or mail it to us:

Farm Implements Act Program
Environmental Management Branch
Ontario Ministry of Agriculture, Food and
Rural Affairs (OMAFRA)
1 Stone Road West, 3rd Floor
Guelph, Ontario N1G 4Y2



We would like to hear from you! If you have any questions or comments regarding this publication please contact us at:

Agricultural Information Contact Centre

Telephone: 1-877-424-1300

Email: ag.info.omafra@ontario.ca

www.ontario.ca/farmimplements



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