

# *The Consumer Products Warranties Act*

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Chapter C-30 of *The Revised Statutes of Saskatchewan, 1978*  
(effective February 26, 1979).

**NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER C-30

### An Act respecting Warranties on Consumer Products

#### SHORT TITLE

##### Short title

1 This Act may be cited as *The Consumer Products Warranties Act*.

1978, c.C-30, s.1.

#### INTERPRETATION

##### Interpretation

2 In this Act:

##### “acceptable quality”

(a) **“acceptable quality”** means the characteristics and the quality of a consumer product that consumers can reasonably expect the product to have, having regard to all the relevant circumstances of the sale of the product, including the description of the product, its purchase price and the express warranties of the retail seller or manufacturer of the product, and includes merchantable quality within the meaning of *The Sale of Goods Act*;

##### “additional written warranty”

(b) **“additional written warranty”** means any undertaking in writing by a warrantor that he will repair, replace, make a refund or take other remedial action with respect to a consumer product that breaks down, malfunctions or fails to meet the specifications set forth in the undertaking, and includes a service contract;

##### “breach of a substantial character”

(c) **“breach of a substantial character”** means:

(i) that a consumer product, or the level of performance of the retail seller or manufacturer of a consumer product, departs substantially from what consumers can reasonably expect, having regard to all the relevant circumstances of the sale of the product, including the description of the product, its purchase price, the statutory warranties and express warranties of the retail seller or the manufacturer of the product; or

(ii) that a consumer product is totally or substantially unfit for all the usual purposes of such product or for any particular purpose for which, to the knowledge of the retail seller, the product is being bought;

**“consumer”**

(d) **“consumer”** means a person who buys a consumer product from a retail seller and includes a non-profit organization, whether incorporated or not, that has objects of a benevolent, charitable, educational, cultural or recreational nature and that acquires a consumer product from a retail seller, but no person who:

(i) acquires a consumer product for the purpose of resale shall be a consumer with respect to that product;

(ii) intends to use a consumer product in a business, or who intends to use the product predominantly for business purposes but also for personal, family or household purposes, shall be a consumer with respect to that product, except that, where goods are consumer products within the meaning of subclause (ii) of clause (e), the individual or the corporation shall be a consumer for the purposes of this Act;

**“consumer product”:**

(e) **“consumer product”:**

(i) means any goods ordinarily used for personal, family or household purposes and, without restricting the generality of the foregoing, includes any goods ordinarily used for personal, family or household purposes that are designed to be attached to or installed in any real or personal property, whether or not they are so attached or installed; and

(ii) includes any goods bought for agricultural or fishing purposes by an individual or by a family farming corporation but does not include any implement the sale of which is governed by the provisions of *The Agricultural Implements Act*;

**“express warranty”**

(f) **“express warranty”** means an express warranty as described in section 8;

**“family farming corporation”**

(g) **“family farming corporation”** means a corporation the principal object and business of which is farming or fishing and with respect to which at least ninety-five per cent of the shares are owned wholly by persons related to one another by blood, marriage or adoption and with respect to which at least fifty-one per cent of the shares are owned by a shareholder or shareholders principally occupied in the farming or fishing operations of the corporation;

**“manufacturer”**

(h) **“manufacturer”** means a person who carries on the business of assembling, processing or manufacturing consumer products and includes:

(i) any person who attaches his brand name or causes or permits his brand name to be attached to consumer products;

(ii) any person who describes himself or holds himself out to the public as the manufacturer of consumer products; and

(iii) where consumer products are manufactured outside Canada and the foreign manufacturer of the products does not have a regular place of business in Canada, a person who imports or distributes such products;

**“motor vehicle”**

(i) **“motor vehicle”** means any self-propelled vehicle designed for conveyance on public highways of persons or goods, and includes a snowmobile;

**“product”**

(j) **“product”** means a consumer product;

**“purchase price”**

(k) **“purchase price”** means, subject to subsection (1) of section 21, the total value of the consideration or such part thereof as has been paid by the consumer to the retail seller or his assignee for a consumer product and includes such finance charges or other credit costs that the consumer has reasonably incurred respecting the product;

**“retail seller”**

(l) **“retail seller”** means a person who sells consumer products to consumers in the ordinary course of his business but, subject to subsection (1) of section 13, does not include a trustee in bankruptcy, receiver, liquidator, sheriff, auctioneer or a person acting under an order of a court;

**“sale”**

(m) **“sale”** means a transaction whereby the retail seller transfers or agrees to transfer the general property in a consumer product to a consumer for a valuable consideration and includes but is not restricted to:

(i) a conditional sale;

(ii) a contract of lease or hire;

(iii) a transaction under which a consumer product is supplied to a consumer along with services;

and any reference in this Act to “buy”, “buying”, “bought”, “sell”, “sold” or “selling” shall be construed accordingly;

**“sale by sample”**

(n) **“sale by sample”** means a sale where there is a term in the contract of sale express or implied to the effect that the sale is a sale by sample;

**“second-hand dealer”**

(o) **“second-hand dealer”** means a retail seller whose sales of second-hand consumer products constitute at least eighty-five per cent of his total number of sales of consumer products, but does not include a retail seller who carries on, in whole or in part, the business of selling motor vehicles;

**“service contract”**

(p) **“service contract”** means a contract in writing for performance over a fixed period of time, or for a specified duration determined by means other than time, of services relating to the maintenance or repair of a consumer product, whether or not the contract provides for the furnishing of parts or materials to be supplied with or consumed in the performance of such services;

**“statutory warranty”**

(q) **“statutory warranty”** means the warranties described in section 11;

**“warrantor”**

(r) **“warrantor”** means a manufacturer, retail seller or other person who offers an additional written warranty to a consumer.

## APPLICATION OF THE ACT

**Act not self-contained code**

**3** The rights and remedies provided in this Act are in addition to any other rights or remedies under any other law in force in the province unless a right or remedy under such law is expressly or impliedly contradicted by this Act, and no provision of this Act shall be construed as repealing, invalidating or superseding the provisions of any other law in force in the province unless this Act by express provision or by necessary implication clearly intends such provision to be so construed.

1976-77, c.15, s.3; 1978, c.C-30, s.3.

**Subsequent owners**

**4(1)** Subject to subsection (2), persons who derive their property or interest in a product from or through the consumer, whether by purchase, gift, operation of law or otherwise, shall, regardless of their place in the sequence of dealings with respect to the product, be deemed to be given by the retail seller or manufacturer the same statutory warranties that the consumer was deemed to have been given under sections 11 and 13 and shall be deemed to receive from the warrantor the same additional written warranties that the consumer received under section 17 and shall, for the purposes of any provision of this Act unless otherwise provided in this Act, have rights and remedies against the retail seller, manufacturer or warrantor equal to but not greater than the rights and remedies the consumer has under this Act and shall be subject to any defences or rights of set-off that could be raised against the consumer under this Act.

**(2)** No retail seller who acquires a product from or through a consumer for the purposes of resale or for use predominantly in a business shall have any rights under subsection (1) with respect to that product.

1976-77, c.15, s.4; 1978, c.C-30, s.4.

**User**

**5** A person who may reasonably be expected to use, consume or be affected by a consumer product and who suffers personal injury as a result of a breach, by a retail seller or manufacturer, of a statutory warranty mentioned in paragraphs 3, 4, 5 and 6 of section 11 shall be entitled to the remedies mentioned in section 27.

1976-77, c.15, s.5; 1978, c.C-30, s.5.

**Used consumer products**

**6(1)** Subject to subsection (2), this Act applies to sales of second-hand, substandard or otherwise inferior consumer products and, where a consumer product is described as being second-hand, substandard or otherwise inferior, the description and the purchase price shall be material facts in determining the characteristics and qualities that consumers can reasonably expect that product to have.

**(2)** Where a second-hand dealer proves that, before he entered into a contract for the sale of a second-hand consumer product, a provision in the contract that excludes or modifies any or all of the statutory warranties mentioned in paragraphs 4, 5 and 7 of section 11 was brought to the notice of the consumer and its effect made clear to him, the second-hand dealer shall be entitled to rely on the provision, but no such exclusion or modification shall in any way limit or affect a manufacturer's liability under subsection (2) of section 13 respecting that product.

1976-77, c.15, s.6; 1978, c.C-30, s.6.

**Waiver of benefits ineffective; inclusion of certain clauses forbidden**

7(1) Subject to subsection (2) of section 6, every agreement or bargain, verbal or written, express or implied, than. the provisions of this Act or the regulations shall not apply or that any right or remedy provided by this Act or the regulations shall not apply, or which in any way limits, modifies or abrogates or in effect limits, modifies or abrogates any such right or remedy, is null and void.

(2) Subject to subsection (2) of section 6, no form of agreement, invoice, bill of sale or other document given to a consumer shall contain any clause or provision that directly or indirectly purports to disclaim, exclude or limit the rights and remedies given to consumers by this Act or the regulations and any manufacturer, retail seller or warrantor who provides an agreement, invoice, bill of sale or other document which contains such a clause is guilty of an offence.

1976-77, c.15, s.7; 1978, c.C-30, s.7.

## WARRANTY OBLIGATIONS

**Express warranties**

8(1) Any promise, representation, affirmation of fact or expression of opinion or any action that reasonably can be interpreted by a consumer as a promise or affirmation relating to the sale or to the quality, quantity, condition, performance or efficacy of a consumer product or relating to its use or maintenance, made verbally or in writing directly to a consumer or through advertising by a retail seller or manufacturer, or his agent or employee who has actual, ostensible or usual authority to act on his behalf, shall be deemed to be an express warranty if it would usually induce a reasonable consumer to buy the product, whether or not the consumer actually relies on the warranty.

(2) No express warranty shall disclaim, exclude or limit a statutory warranty prescribed by section 11.

1976-77, c.15, s.8; 1978, c.C-30, s.8.

**Parol evidence rule abolished**

9 Parol or extrinsic evidence establishing the existence of an express warranty shall be admissible in any action between a consumer and a retail seller or manufacturer even though it adds to, varies or contradicts a written contract.

1976-77, c.15, s.9; 1978, c.C-30, s.9.

**Express warranties in labels or packages, in advertising, deemed part of description**

10(1) A retail seller shall be deemed to be a party to express warranties contained on labels or packages accompanying or attached to a consumer product sold by him to a consumer unless he has made it clear to the consumer prior to the sale that he does not adopt the express warranties.

(2) Subject to subsection (3), no retail seller shall be deemed to be a party to any express warranties contained in any advertisement originating from or carried out by a manufacturer unless he expressly or impliedly adopts such warranties.

(3) Notwithstanding that a retail seller does not adopt the express warranties mentioned in subsections (1) and (2), any descriptive statements that appear on the label or container or otherwise accompany the consumer product shall, for the purposes of paragraph 3 of section 11, be deemed to be part of the description of the product.

1976-77, c.15, s.10; 1978, c.C-30, s.10.

**Statutory warranties**

11 Where a consumer product is sold by a retail seller, the following warranties shall be deemed to be given by the retail seller to the consumer:

**Title**

1. that the retail seller has a right to sell the product;

**Freedon from encumbrances**

2. that, at the time of delivery to the consumer, the product is and will remain free from any security interest, lien, charge or encumbrance not expressly disclosed or actually known to the consumer before the sale is made and that the consumer will enjoy quiet possession of the product except insofar as it may be disturbed by any person entitled to any security interest, lien, charge or encumbrance disclosed or actually known to the consumer before the sale is made;

**Description**

3. where the sale of the product is a sale by description, that the product shall correspond with the description;

**Acceptable quality**

4. that the product supplied under the contract is of acceptable quality, except that no such warranty shall be deemed to be given:
  - (a) with respect to defects specifically drawn to the consumer's attention before the contract is made; or
  - (b) where the consumer examines the product before the contract is made, with respect to defects that that examination ought to have revealed;

**Particular purpose**

5. where the consumer expressly or by implication makes known to the retail seller any particular purpose for which the product is being bought, that the product supplied under the contract is reasonably fit for that purpose, whether or not that is a purpose for which such a product is commonly supplied, except that no such warranty shall be deemed to be given where the circumstances show that the consumer does not rely upon or that it is unreasonable for him to rely upon the retail seller's skill or judgment;

**Sample**

6. where the sale of the product is a sale by sample:
  - (a) that the bulk of the product shall correspond in quality with the sample;
  - (b) that the consumer shall have a reasonable opportunity to compare the hulk of the product with the sample;
  - (c) that the product shall be free from any defect that renders it not of acceptable quality and that would not be apparent on reasonable examination of the sample;

**Durability**

7. that the product and all its components shall be durable for a reasonable period of time, having regard to all the relevant circumstances of the sale, including the description and nature of the product, the purchase price, the express warranties of the retail seller or manufacturer, the necessary maintenance the product normally requires and the manner in which it has been used;

**Spare parts and repair facilities**

8. where the product normally requires repairs, that spare parts and reasonable repair facilities will be available for a reasonable period of time after the date of sale of the product.

**Sale by description**

**12** No sale of consumer products shall be precluded from being a sale by description by reason only that it is a sale of specific consumer products or that the products being exposed for sale are selected by the consumer.

1976-77, c.15, s.12; 1978, c.C-30, s.12.

**Manufacturers deemed to give statutory warranties; “retail seller”**

**13(1)** For the purposes of subsection (2), “retail seller” shall be deemed to include those persons who are excluded from the definition of retail seller in clause (1) of section 2.

(2) Subject to subsection (3), the manufacturer of consumer products shall be deemed to give to consumers of his products the same statutory warranties with respect to his products as the retail seller is deemed to have given under paragraphs 2 to 8 of section 11.

(3) A manufacturer of consumer products shall be liable only for his own breach of the statutory warranties or of any express or additional written warranties that he has given to consumers and, without limiting the generality of the foregoing, the application of subsection (2) shall be subject to the following:

(a) no provision of paragraph 2 of section 11 shall apply with respect to any security interest that is not created by the manufacturer or any lien, charge or encumbrance not arising as the result of any act or default on his part;

(b) no manufacturer shall be bound by any description applied by the retail seller to the consumer products without the authority or consent of the manufacturer;

(c) for the purpose of paragraph 4 of section 11, the consumer shall be deemed to have notice of a defect if disclosure of such a defect was made directly or indirectly to the retail seller and was intended by the manufacturer to reach the consumer and in the normal course of events could reasonably be expected by the manufacturer to reach the consumer;

(d) no provision of paragraph 5 of section 11 shall apply where, without the consent of the manufacturer, any consumer product is sold by a retail seller to a consumer as being fit for a purpose that is not the ordinary purpose of such a product.

1976-77, c.15, s.13; 1978, c.C-30, s.13.

**No privity of contract required and consideration deemed to be received; awareness or reliance irrelevant**

**14(1)** In any action brought under this Act against a manufacturer, retail seller or warrantor for breach of a statutory, express or additional written warranty, lack of privity of contract between the person bringing the action and the retail seller, manufacturer or warrantor shall not be a defence and the retail seller, manufacturer or warrantor shall be conclusively presumed to have received consideration.

(2) In any action brought to enforce the terms of an additional written warranty, the fact that at the time of the sale of the consumer product the consumer was or was not aware of the existence of the additional written warranty or the consumer did or did not rely upon the additional written warranty shall be irrelevant.

1976-77, c.15, s.14; 1978, c.C-30, s.14.

**Onus of proof**

**15** Where a consumer, a person mentioned in subsection (1) of section 4 who derives his property or interest in a consumer product from or through a consumer, or a person mentioned in section 5 brings an action against a manufacturer for breach of one or more statutory warranties set out in paragraphs 4 and 5 of section 11, and where the consumer or person proves the poor quality, malfunctioning or breakdown of the consumer product but cannot prove the exact cause of the poor quality, malfunctioning or breakdown, and where the facts of the case are such that it is reasonable to draw an inference of a breach by the manufacturer of those statutory warranties, there shall be a presumption of breach of those warranties by the manufacturer but the presumption can be rebutted by proof that the poor quality, malfunctioning or breakdown of the consumer product was due to a cause not attributable to the manufacturer or that the consumer product was acceptable or fit for the purpose for which it was bought when it went out of the manufacturer's control.

1976-77, c.15, s.15; 1978, c.C-30, s.15.

**Retail seller's rights against the manufacturer**

**16** Where a retail seller is sued by a consumer or by a person mentioned in subsection (1) of section 4 or in section 5 for breach of a statutory warranty and the manufacturer of the consumer product is in breach of the same statutory warranty to the consumer or person, the retail seller is entitled to recover from the manufacturer any losses the retail seller may suffer as a result of the suit, regardless of whether the retail seller bought the consumer product directly from the manufacturer.

1976-77, c.15, s.16; 1978, c.C-30, s.16.

## ADDITIONAL WRITTEN WARRANTIES

**Additional written warranties, guidelines**

**17(1)** Nothing in this Act shall prevent a warrantor from giving additional written warranties in addition to the statutory warranties set out in section 11.

(2) Any additional written warranty shall contain:

- (a) the name and address of the warrantor;
- (b) the parts of the consumer product covered by the warranty;
- (c) the duration of the warranty;
- (d) the conditions that the person claiming under the warranty must fulfil before the warranter will perform his obligation under the warranty;
- (e) the costs, if any, that must be borne by the person claiming under the warranty;
- (f) a statement that the provisions of the additional written warranty are in addition to and not a modification of or subtraction from the statutory warranties and other rights and remedies contained in this or any other Act;
- (g) the procedure a person claiming under the warranty has to follow for the presentation of a claim under the warranty;
- (h) the name and address of the repair facility that the consumer product is to be sent to for repair or that a request is to be sent to for the repair of the product in the home of the person claiming under the warranty.

- (3) No additional written warranty shall contain any provision:
- (a) that makes the warrantor or his agent the sole judge in deciding whether or not there is a valid claim under the warranty;
  - (b) that purports to exclude or limit any express or statutory warranty or any of the rights or remedies contained in this Act;
  - (c) that makes a claim under the warranty dependent on the consumer product being returned to the warrantor, when it would be unreasonable to so return the product;
  - (d) that limits the benefit of the warranty to the consumer and that excludes or in effect excludes persons mentioned in subsection (1) of section 4 from receiving the benefit of the warranty; or
  - (e) that is deceptively worded.

1976-77, c.15, s.17; 1978, c.C-30, s.17.

**When unreasonable to require return of product**

**18** For the purposes of clause (c) of subsection (3) of section 17, it shall be unreasonable to require a person claiming under the warranty to return to a warrantor any consumer product that, because of its size, weight or method of attachment or installation, cannot be removed or transported without significant cost to such person.

1976-77, c.15, s.18; 1978, c.C-30, s.18.

## REMEDIES

**Remedies are additional; sections 20 to 26 apply *mutatis mutandis* to certain persons**

**19** Sections 20 to 26 shall:

- (a) apply in addition to any other remedies to which a consumer may be entitled under the terms of an additional written warranty; and
- (b) except with respect to any reference to express warranties, apply *mutatis mutandis* to any person mentioned in subsection (1) of section 4 who derives his property or interest in a consumer product from or through the consumer.

1976-77, c.15, s.19; 1978, c.C-30, s.19.

**Remedies for breach of statutory or express warranties**

**20(1)** Where there is a breach by a manufacturer or retail seller of a statutory warranty set out in section 11 or of an express warranty mentioned in section 8:

- (a) and where the breach is remediable and not of a substantial character:
  - (i) the party in breach shall, within a reasonable period of time, make good the breach free of charge to the consumer but, where the breach has not been remedied within such reasonable period of time, the consumer shall be entitled to have the breach remedied elsewhere and to recover from the party in breach all reasonable costs incurred in having the breach remedied;
  - (ii) the consumer shall be entitled to recover damages for losses that he has suffered and that were reasonably foreseeable as liable to result from the breach regardless of whether the breach is remedied;
- (b) and where the breach is of a substantial character or is not remediable, the consumer may, at his option, exercise the remedies under clause (a) or, subject to the provisions of subsections (2) and (3), he may reject the consumer product and, if he exercises his right to reject, he shall be entitled to recover the purchase price from the party in breach and to recover damages for any other losses that he has suffered and that were reasonably foreseeable as liable to result from the breach.

(2) The consumer shall exercise his right to reject the consumer product under clause (b) of subsection (1) within a reasonable period of time as mentioned in subsection (3), except where the consumer delays the exercise of his right to reject because he has relied upon assurances made by the party in breach or his agent that the breach will be remedied when in fact the breach is not so remedied.

(3) For the purposes of subsection (2), regardless of whether the right to reject is being exercised by the consumer or a person mentioned in subsection (1) of section 4, a reasonable period of time shall run from the time of delivery of the product to the consumer and shall consist of a period of time sufficient to permit such testing, trial or examination of the consumer product as may be normally required by consumers of that product and as may be appropriate considering the nature of the product, for the purpose of determining the conformity of the product to the obligations imposed under this Act on the party in breach.

1976-77, c.15, s.20; 1978, c.C-30, s.20.

**Where subsequent owner claims purchase price**

**21(1)** Where a person mentioned in subsection (1) of section 4 rejects a consumer product under clause (b) of subsection (1) of section 20, subject to subsection (2), the purchase price he is entitled to claim shall be the total value of the consideration or such part thereof as has been paid by him for the consumer product and includes such finance charges or other credit costs that he has reasonably incurred respecting the product.

(2) In no case shall a person mentioned in subsection (1) of section 4 be entitled to claim a purchase price greater than the purchase price paid by the consumer to the retail seller or his assignee.

1976-77, c.15, s.21; 1978, c.C-30, s.21.

**Where party in breach must repair product**

**22(1)** Where the provisions of subsection (1) of section 20 apply so that the party in breach is required to repair the consumer product, the consumer shall return the product to the place of business of, or to any repair facility or service outlet operated by:

- (a) the retail seller, where he is the party in breach;
- (b) the manufacturer, where he is the party in breach; or
- (c) either of them, where both are in breach.

(2) No consumer shall be obliged to return the consumer product pursuant to subsection (1) to the party in breach if, by reason of the nature of the breach or the size, weight or method of attachment or installation of the product, it cannot be removed or transported without significant cost to the consumer; and in that event the party in breach shall collect and arrange for the transportation and return of the product at his own expense or shall cause the repair to be made at the site where the product is located.

(3) For the purposes of subclause (i) of clause (a) of subsection (1) of section 20, the reasonable period of time shall run from the time when the party in breach receives the consumer product but, where subsection (2) of this section applies, the reasonable period of time shall run from the time when the consumer advises the party in breach of the defect in the consumer product.

1976-77, c.15, s.22; 1978, c.C-30, s.22.

**Where consumer rejects products**

**23** Where a consumer rejects a consumer product under clause (b) of subsection (1) of section 20:

- (a) and where the party in breach is the manufacturer, the manufacturer shall be liable to refund the purchase price of the product to the consumer even though the purchase price was paid or is payable to the retail seller or any other person;
- (b) the consumer shall have no responsibility to deliver the product to the party in breach and it is sufficient if the consumer informs the party in breach that he rejects it;
- (c) the party in breach shall be entitled to recover from the consumer, or set off against the refund of the purchase price of the product, an amount that is equitable for the use of the product, provided that in determining the amount no regard shall be taken of the depreciation of the product unless it is otherwise provided for by the regulations;
- (d) the consumer shall be entitled to retain possession of the rejected product as against the manufacturer and retail seller until he recovers the purchase price he paid, and as against an assignee until he recovers the amount he paid to the assignee.

1976-77, c.15, s.23; 1978, c.C-30, s.23.

**Remedy for breach of additional written warranty to repair or replace**

**24** Where a consumer makes a valid claim under an additional written warranty for repair or replacement of a consumer product and the warrantor does not, within a reasonable period of time after the claim is made, perform the repair or replacement in accordance with the terms of the additional written warranty, the consumer shall be entitled to have the defect remedied elsewhere and to recover reasonable repair costs from the warrantor as well as damages for losses that the consumer suffered and that were reasonably foreseeable as liable to result from the failure of the warrantor to honour the warranty.

1976-77, c.15, s.24; 1978, c.C-30, s.24.

**Additional repair costs**

**25** Where an additional written warranty covers only a certain part or parts of a consumer product or where an additional written warranty specifies that it covers only certain repair costs that may arise with respect to the product, no consumer of the product shall be obliged to pay any additional repair costs unless the warranty complies with section 17 and the consumer has agreed in writing to pay for the additional repair costs not covered by the warranty.

1976-77, c.15, s.25; 1978, c.C-30, s.25.

**Costs of disassembly and damages for claim of lien or failure to assemble**

**26(1)** Where a manufacturer, retail seller or warrantor assembles or dismantles a consumer product in order to repair the product to fulfil the requirements of subclause (i) of clause (a) of subsection (1) of section 20 or the requirements of an additional written warranty for which he is responsible and it is found that the part or parts that were going to be repaired or replaced are not defective, the consumer shall pay the reasonable costs of disassembling or dismantling the consumer product if he agreed in writing to pay such costs and if his attention was specifically drawn to the clause or clauses of the agreement whereby he agreed to pay such costs.

(2) Where a manufacturer, retail seller or warrantor is not entitled to recover the cost of disassembling or dismantling a consumer product under subsection (1), he shall reassemble the product at his own expense and put it at the disposal of the consumer within the shortest possible time.

(3) Where a manufacturer, retail seller or warrantor fails to comply with the provisions of subsection (2), or where he is not entitled to payment for repairs to a consumer product but he claims a lien and refuses to give up possession of the product, the consumer shall be entitled to recover damages for losses that he suffered and that were reasonably foreseeable as liable to result from the breach of the duty imposed by subsection (2) or from the refusal to give up possession.

1976-77, c.15, s.26; 1978, c.C-30, s.26.

**User may recover damages**

**27** A person mentioned in section 5 shall, as against the retail seller or manufacturer, be entitled to recover damages arising from personal injuries that he has suffered and that were reasonably foreseeable as liable to result from the breach.

1976-77, c.15, s.27; 1978, c.C-30, s.27.

**Exemplary damages**

**28(1)** In addition to any other remedy provided by this Act or any other law in force in the province, a consumer or a person mentioned in subsection (1) of section 4 or in section 5 may recover exemplary damages from any manufacturer, retail seller or warrantor who has committed a wilful and knowing violation of this Act.

(2) In an action in which exemplary damages are claimed, evidence with respect to the existence of similar conduct in transactions between the manufacturer, retail seller or warrantor and other consumers shall be admissible for the purposes of proving that a violation of this Act was wilful or of proving the degree of wilfulness of the violation.

1976-77, c.15, s.28; 1978, c.C-30, s.28.

**Party—party costs**

**29** Where a consumer, or a person mentioned in subsection (1) of section 4 who derives his property or interest in a consumer product from or through a consumer, or a person mentioned in section 5:

(a) brings an action against a manufacturer, retail seller or warrantor for breach of a warranty under this Act; or

(b) in an action brought by a manufacturer, retail seller or warrantor, defends or counterclaims on the grounds that the manufacturer, retail seller or warrantor has been guilty of a breach of warranty under this Act;

no costs shall be awarded against the consumer or such person regardless of whether he is successful in his action, defence or counterclaim unless, in the opinion of the court, the action, defence or counterclaim was frivolous or vexatious.

1976-77, c.15, s.29; 1978, c.C-30, s.29.

**Limitation of actions**

**30** An action for breach of warranty brought under this Act shall be commenced within and not after two years from the time the breach of warranty is first discovered by the person bringing the action.

1976-77, c.15, s.30; 1978, c.C-30, s.30.

## RESOLUTION OF DISPUTES

**Resolution of disputes**

**31** In the event of any dispute arising under this Act, any person affected may refer the dispute to an authorized official of the Department of Consumer Affairs who may:

(a) endeavour by mediation to settle the dispute; or

(b) with the written consent of all the parties affected, submit the dispute to arbitration in accordance with *The Arbitration Act*.

1976-77, c.15, s.31; 1978, c.C-30, s.31.

**Service of documents**

**32** In disputes arising under this Act, any notice, document or legal process may be served on a manufacturer, retail seller or warrantor:

- (a) where the manufacturer, retail seller or warrantor is a corporation:
  - (i) and has no registered office in Saskatchewan, by sending it by registered mail to the address of the corporation as shown on the receipt or other printed matter given to the consumer before or at the time of sale and, where the corporation is a manufacturer and its address is not shown on any receipt or printed matter given to the consumer, by sending it by registered mail to the retail seller whose place of business shall be deemed to be the registered office of the manufacturer;
  - (ii) by leaving it at, or sending it by registered mail to, the registered office of the corporation;
  - (iii) by personally serving any director, officer, receiver-manager or liquidator of the corporation; or
  - (iv) by personally serving any attorney required to be appointed by an extra-provincial corporation registered in Saskatchewan pursuant to *The Companies Act*;
- (b) where the manufacturer, retail seller or warrantor is not a corporation:
  - (i) by leaving it at, or sending it by registered mail to, his or its place of business and, where he or it carries on business at more than one place of business, by leaving it at, or sending it by registered mail to, any of his or its places of business; or
  - (ii) by personally serving any employer or employee at his or its place of business;

and service made in accordance with this section shall be good and sufficient service.

1976-77, c.15, s.32; 1978, c.C-30, s.32.

**Jurisdiction**

**33(1)** Subject to any regulations made by the Lieutenant Governor in Council pursuant to section 37, consumers, persons mentioned in subsection (1) of section 4 and persons mentioned in section 5 who buy or use consumer products in Saskatchewan, and manufacturers, retail sellers or warrantors who carry on business in Saskatchewan, are subject to the provisions of this Act and to the jurisdiction of the courts of Saskatchewan.

(2) For the purposes of this Act, a manufacturer, retail seller or warrantor shall be deemed to carry on business in Saskatchewan if one or more of the following conditions are met:

1. he holds title to land in Saskatchewan or any interest in land in Saskatchewan for the purposes of carrying on business in Saskatchewan;
2. he maintains an office, warehouse or place of business in Saskatchewan;

3. he is licensed or registered under any statute of Saskatchewan entitling him to do business or to sell securities of his own issue;
4. his name and telephone number are listed in a current telephone directory and the telephone is located at a place in Saskatchewan for the purposes of carrying on business in Saskatchewan;
5. an agent, salesman, representative or other person conducts business in Saskatchewan on his behalf;
6. he directly or indirectly markets consumer products in Saskatchewan;
7. he otherwise carries on business in Saskatchewan.

1976-77, c.15, s.33; 1978, c.C-30, s.33.

#### Effect of breach of standards

**34(1)** In any action arising under this Act, proof that a consumer product does not comply with mandatory health or safety standards set under an Act of the Parliament of Canada or an Act of the Legislature or with quality standards set by regulation constitutes *prima facie* evidence that the consumer product is not of acceptable quality or fit for the purpose for which it was bought.

(2) No proof that a consumer product complies with the standards mentioned in subsection (1) shall constitute *prima facie* evidence that the consumer product is of acceptable quality or fit for the purpose for which it was bought.

1976-77, c.15, s.34; 1978, c.C-30, s.34.

## ADMINISTRATION OF THE ACT

#### Offences and penalties

**35(1)** Every manufacturer, retail seller or warrantor who without lawful excuse, the proof of which lies upon him, provides an additional written warranty that does not comply with section 17 or who contravenes subsection (2) of section 7 or any provision of the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment and, in default of payment, to imprisonment for a term not exceeding six months.

(2) Where a corporation has committed an offence under subsection (1), every director, officer or other person who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of an offence and is liable on summary conviction to the penalties set out in subsection (1) whether or not the corporation has been prosecuted or convicted.

(3) Notwithstanding subsection (1), where a person convicted of an offence under this Act or the regulations is a corporation, the maximum penalty may be increased to \$5,000.

(4) No prosecution under subsection (1) or (2) shall be instituted more than three years after the time of the commission of the alleged offence.

1976-77, c.15, s.35; 1978, c.C-30, s.35.

**Time Act begins to apply**

**36** This Act applies to all sales concluded and all express, statutory and additional written warranties given or deemed to have been given by virtue of this Act on or after the date on which this Act or the relevant section thereof comes into force.

1976-77, c.15, s.36; 1978, c.C-30, s.36.

**Regulations**

**37** For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to and are not inconsistent with this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) declaring that this Act or any provisions of this Act do not apply to a consumer product or a class or classes of consumer products, or to a manufacturer, retail seller or warrantor or a class or classes of manufacturers, retail sellers or warrantors;
- (b) providing for filing and approval of additional written warranty documents, retail sale agreements or any other documents to be used by manufacturers, retail sellers or warrantors;
- (c) regulating, for the purposes of paragraph 8 of section 11, the availability of spare parts and reasonable repair facilities for consumer products that normally require repairs, including:
  - (i) declaring what shall constitute reasonable repair facilities for different manufacturers or retail sellers or classes of manufacturers or retail sellers or for different consumer products or classes of consumer products;
  - (ii) declaring different consumer products or classes of consumer products to be consumer products that normally require repairs;
  - (iii) declaring that no provision of paragraph 8 of section 11 shall apply to specified repair facilities or spare parts for specified consumer products or classes of consumer products; and
  - (iv) declaring what is a reasonable period of time for availability of reasonable repair facilities or spare parts for different consumer products or classes of consumer products;
- (d) deeming the provisions of certain additional written warranties to be deceptively worded contrary to clause (e) of subsection (3) of section 17;
- (e) regulating the advertising by manufacturers, retail sellers or warrantors of any of the warranties covered by this Act;
- (f) prescribing the manner in which the amount to be recovered or set off for use of a consumer product or class of consumer products is to be determined for the purposes of clause (c) of section 23;
- (g) prescribing, for the purposes of section 34, the standards of quality for consumer products;

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(h) prescribing, for the purposes of subsection (3) of section 22, the periods of time with respect to different manufacturers or retail sellers or classes of manufacturers or retail sellers and with respect to different consumer products or classes of consumer products;

(i) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act.

1976-77, c.15, s.37; 1978, c.C-30, s.37.

**Crown bound by Act**

**38** The Crown is bound by this Act.

1976-77, c.15, s.38; 1978, c.C-30, s.38.

**Coming into force**

**39** Where any of the provisions of *The Consumer Products Warranties Act, 1977*, have not been brought into force under section 39 of that Act before *The Revised Statutes of Saskatchewan, 1978*, come into force, the provisions which have not been brought into force come into force on a day or days to be fixed by proclamation of the Lieutenant Governor.

