

1996

## CHAPTER C-30.1

### An Act respecting Marketplace Practices, Consumer Product Warranties and Unsolicited Goods and Credit Cards

(Assented to April 4, 1996)

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

#### PART I Preliminary

##### Short title

1 This Act may be cited as *The Consumer Protection Act*.

##### Act binds Crown

2 This Act binds the Crown in right of Saskatchewan.

#### PART II Marketplace Practices INTERPRETATION AND APPLICATION

##### Interpretation of Part

3 In this Part:

- (a) **"consumer"** means an individual that participates or may participate in a transaction involving goods or services;
- (b) **"court"** means the Court of Queen's Bench;
- (c) **"director"** means the person appointed pursuant to section 9;
- (d) **"goods"** means personal property, including fixtures, ordinarily used for personal, family or household purposes that have been or may be sold, leased or otherwise provided by a supplier to a consumer;
- (e) **"minister"** means the member of the executive council to whom for the time being the administration of this Act is assigned;
- (f) **"services"** means services ordinarily provided for personal, family or household purposes that have been or may be sold, leased or otherwise provided by a supplier to a consumer;

(g) **“supplier”** means a person who, as principal or agent, carries on the business of:

- (i) selling, leasing or otherwise providing goods or services on a retail basis;
- (ii) manufacturing, importing, producing or assembling goods; or
- (iii) distributing goods or services;

(h) **“unfair practice”** means an unfair practice within the meaning of section 5.

### **Application**

**4** This Part applies to any transaction or proposed transaction involving goods or services other than a transaction or proposed transaction or type or kind of transaction or proposed transaction prescribed in the regulations for the purposes of this section.

## **UNFAIR PRACTICES**

### **Unfair practices**

**5** It is an unfair practice for a supplier, in a transaction or proposed transaction involving goods or services, to:

- (a) do or say anything, or fail to do or say anything, if as a result a consumer might reasonably be deceived or misled;
- (b) make a false claim;
- (c) take advantage of a consumer if the person knows or should reasonably be expected to know that the consumer:
  - (i) is not in a position to protect his or her own interests; or
  - (ii) is not reasonably able to understand the nature of the transaction or proposed transaction; or
- (d) without limiting the generality of clauses (a) to (c), do anything mentioned in section 6.

### **Specific unfair practices**

**6** The following are unfair practices:

- (a) representing that goods or services have sponsorship, approval, performance characteristics, accessories, ingredients, components, qualities, uses or benefits that they do not have;
- (b) representing that the supplier has a sponsorship, approval, status, affiliation or connection that the supplier does not have;
- (c) representing that goods or services are of a particular standard, quality, grade, style, model, origin or method of manufacture if they are not;
- (d) representing that goods are new or unused if they are not or if they have deteriorated or been altered, reconditioned or reclaimed;
- (e) representing that goods have been used to an extent different from the fact or that they have a particular history or use if the supplier knows it is not so;

- (f) representing that goods or services are available if the supplier does not supply nor intend to supply or otherwise dispose of the goods or services as represented;
- (g) representing that goods or services are available or are available for a particular reason, for a particular price, in particular quantities or at a particular time if the supplier knows or can reasonably be expected to know it is not so, unless the representation clearly states any limitations;
- (h) representing that a service, part, repair or replacement is needed if that is not so, or that a service has been provided, a part has been installed, a repair has been made or a replacement has been provided, if that is not so;
- (i) representing that a price benefit or advantage exists respecting goods or services where a price benefit or advantage does not exist;
- (j) charging a price for goods or services that is substantially higher than an estimate provided to the consumer, except where the consumer has expressly agreed to the higher price in advance;
- (k) representing that a transaction involving goods and services involves or does not involve rights, remedies or obligations where that representation is deceptive or misleading;
- (l) representing anything that gives a part of the price of specific goods or services but does not give reasonable prominence to the total price of the goods or services;
- (m) representing that a salesperson, representative, employee or agent has the authority to negotiate the final terms of a transaction involving goods or services if that is not so;
- (n) representing that the purpose or intent of a solicitation or communication with a consumer by a supplier is for a purpose or intent different from the fact;
- (o) using exaggeration, innuendo or ambiguity in representing a material fact, or failing to disclose a material fact, if the representation or failure is deceptive or misleading;
- (p) representing that goods or services have been made available in accordance with a previous representation if they have not;
- (q) taking advantage of a consumer by including in a consumer agreement terms or conditions that are harsh, oppressive or excessively one-sided;
- (r) taking advantage of a consumer by entering into an agreement where the price of the goods and services grossly exceeds the price at which similar goods or services are readily obtainable in a similar transaction by like consumers;
- (s) taking advantage of a consumer by exerting undue pressure or undue influence on the consumer to enter into a transaction involving goods or services.

**Unfair practices prohibited**

7(1) No supplier shall commit an unfair practice.

(2) No employee, agent, salesperson or representative of the supplier shall commit an unfair practice.

(3) A supplier and the supplier's employee, agent, salesperson or representative are liable for an unfair practice of the employee, agent, salesperson or representative.

(4) In determining whether or not a person has committed an unfair practice, the general impression given by the

alleged unfair practice may be considered.

(5) In determining whether or not a person has committed an unfair practice, the reasonableness of the actions of that person in those circumstances is to be considered.

**Circumstances surrounding unfair practice**

**8**(1) An unfair practice may occur before, during or after a transaction involving goods or services or whether or not a transaction involving goods or services takes place.

(2) An unfair practice may consist of a single act or omission.

(3) An unfair practice is an unfair practice for the purposes of this Part notwithstanding that:

(a) it is not directed at a specific consumer and does not occur in the course of or for the purposes of a specific transaction involving goods or services but is directed to the public at large; and

(b) there is no privity of contract between the supplier and any specific consumer affected by the unfair practice.

**INVESTIGATIONS**

**Director to be appointed**

**9**(1) The minister shall administer this Part.

(2) The minister shall appoint a director, who is to be responsible to the minister, to manage and direct the administration of this Part.

(3) The director shall:

(a) inform consumers and suppliers of the provisions of this Part and the regulations, and of their rights and duties; and

(b) maintain a public record of:

- (i) enforcement proceedings taken pursuant to this Part or the regulations made pursuant to this Part;
- (ii) orders and judgments rendered pursuant to this Part; and
- (iii) voluntary compliance agreements entered into pursuant to this Part.

### **Investigations**

**10(1)** The minister may designate persons or classes of persons to act as investigators for the purposes of this Part and the regulations made pursuant to this Part.

(2) The director may order an investigation where, as a result of a complaint or the director's own inquiries, the director is of the opinion that there are reasonable grounds to believe that a person has contravened, is contravening or is about to contravene:

- (a) this Part or the regulations made pursuant to this Part;
- (b) an order or judgment rendered pursuant to this Part; or
- (c) a voluntary compliance agreement entered into pursuant to this Part.

(3) In an investigation, the director or an investigator, with the consent of the supplier, may:

- (a) at any reasonable time, enter the business premises of the supplier and examine any book, paper, document or thing found in the premises that may be relevant to the contravention;
- (b) make copies of any book, paper, document or thing examined;
- (c) retain any book, paper, document or thing examined that may be required for use as evidence; and
- (d) inquire into:
  - (i) any negotiations, transactions, loans or borrowing made by or on behalf of or in relation to the supplier that may be relevant to the contravention; and
  - (ii) any assets, property or things owned, acquired or disposed of in whole or in part by the supplier, or by any other person acting on the supplier's behalf, that may be relevant to the contravention.

### **Written demand to produce records**

**11(1)** For the purpose of administering and enforcing this Part, the director may serve a written demand on any supplier requiring the production, including the production on oath, of any record that relates or may relate to an unfair practice.

(2) The director may specify a reasonable time within which the written demand is to be complied with, and every person on whom a demand is served shall comply within the specified time.

### Copies of records

**12(1)** Where a record has been examined, removed or produced pursuant to this Part, the director may make copies of that record.

(2) A record certified by the director to be a copy made pursuant to this section:

(a) is admissible in evidence without proof of the office or signature of the director; and

(b) has the same probative force as the original record.

(3) The director shall ensure that after copies of any records examined, removed or produced pursuant to this Part are made, the originals are promptly returned to:

(a) the place they were removed from; or

(b) any other place that may be agreed to by the director and the person who produced them or from whom they were removed.

### Warrants

**13(1)** Where the director, pursuant to this Part, requires the production of any record and the person from whom the record is required refuses or neglects to produce that record, the director may apply *ex parte* to a justice of the peace or a judge of the Provincial Court for a warrant authorizing the director or a person named in the warrant to:

(a) enter and search any premises named in the warrant for the record that the person refused or neglected to produce; and

(b) seize and take possession of the record.

(2) A justice of the peace or judge of the Provincial Court, if satisfied on oath of the director that the director has required production of a record and the person from whom production was required has refused or neglected to produce that record, may issue the warrant.

## REMEDIES

### Consumer may commence action

**14(1)** In this section and sections 15 and 16, "**court**" includes the Provincial Court of Saskatchewan, but only where the action or relief sought is within the jurisdiction of that court pursuant to *The Small Claims Act*.

(2) A consumer who has suffered a loss as a result of an unfair practice may commence an action in the court against a supplier.

(3) A consumer shall not commence an action where the director has made application to the court on the consumer's behalf pursuant to section 15 respecting the same supplier and transaction.

### Action by director for consumer

**15(1)** Where the director believes it is in the public interest, the director may, with the written approval of the minister and on behalf of any consumer affected by an unfair practice:

- (a) commence any court action against the supplier that the consumer would be entitled to bring pursuant to section 14;
  - (b) maintain any court action that the consumer has already commenced against the supplier pursuant to section 14;
  - (c) defend any court action brought by the supplier against the consumer for any transaction respecting goods or services.
- (2) In a court action pursuant to this section, the court may make any order and grant any relief that it may make or grant pursuant to section 16 in an action by a consumer.
- (3) The director, the affected consumer and supplier, and any other persons that the court may direct are parties to any court action commenced, maintained or defended by the director pursuant to this section.

**Court order**

**16(1)** Where the court finds that a supplier has committed an unfair practice, the court may:

- (a) order restitution of any money, property or other consideration given or furnished by the consumer;
  - (b) award the consumer damages in the amount of any loss suffered because of the unfair practice, including punitive or exemplary damages;
  - (c) grant an injunction restraining the supplier from continuing the unfair practice;
  - (d) make an order of specific performance against the supplier;
  - (e) order the supplier to comply with a voluntary compliance agreement entered into by the supplier; or
  - (f) make any other order the court considers appropriate.
- (2) An order pursuant to clause (1)(b) for exemplary or punitive damages may not be made against the supplier where the supplier took reasonable precautions and exercised due diligence to avoid the unfair practice.

(3) Where the court finds that an unfair practice has occurred, for the purposes of making an order pursuant to this section, the court shall consider whether or not the consumer made a reasonable effort:

- (a) to minimize any loss resulting from the unfair practice; and
- (b) to resolve the dispute with the supplier before commencing the action.

### **Voluntary compliance**

**17(1)** Where the director is of the opinion that there are reasonable grounds to believe that a supplier has committed, is committing or is about to commit an unfair practice, the director may invite the supplier to enter into a voluntary compliance agreement.

(2) A voluntary compliance agreement:

- (a) is to be in writing; and
- (b) is to include an undertaking that the person will not engage in the prohibited activity.

(3) A voluntary compliance agreement may include an undertaking to:

- (a) pay damages to any consumer who suffered loss as a result of an unfair practice, as specified in the agreement;
- (b) reimburse the minister for the minister's costs, as specified in the agreement;
- (c) create and maintain trust accounts and to pay money received from consumers into those accounts, as specified in the agreement; and
- (d) give to the director a copy of any contract, advertisement or other document, as specified in the agreement.

(4) The director may require that the voluntary compliance agreement contain any terms that the director considers appropriate, including a term that the supplier file with the director and maintain collateral for an undertaking in a form and amount acceptable to the director.

### **Immediate compliance order**

**18(1)** The director may make an order for immediate compliance with this Part to take effect immediately where the director is of the opinion that there are reasonable grounds to believe that:

- (a) a supplier has committed, is committing or is about to commit an unfair practice; and
- (b) an immediate compliance order is in the public interest.

(2) A supplier against whom an immediate compliance order is made is to be served with a copy of the order together with written reasons for the making of the order.

(3) The supplier named in an immediate compliance order may appeal the order, within 10 days of the order being made, to the court.

(4) Where a supplier appeals an immediate compliance order, the court may:

- (a) confirm or vary the order;



- (b) set aside the order;
  - (c) make any other order it considers appropriate; or
  - (d) attach any terms to the order it considers appropriate.
- (5) In an appeal:
- (a) the director and the supplier appealing the order and any other persons that the court may specify are parties to the proceedings before the court; and
  - (b) the director has the burden of establishing that the supplier is or was committing the unfair practice set out in the director's order.

**Order to refrain from dealing with assets**

**19(1)** The director may apply to the court *ex parte* for an order where the director is of the opinion that there are reasonable grounds to believe that it is necessary for the protection of the public and that:

- (a) a supplier has committed, is about to commit or is committing an unfair practice; and
  - (b) the supplier has received money or security from the consumer in relation to a transaction.
- (2) The order may:
- (a) prohibit any person who is holding funds of the supplier, who has possession or control over any real or personal property or other assets of the supplier or who has a debt to pay to the supplier from disposing of or otherwise dealing with the funds, property, assets or debt except as approved by the court;
  - (b) direct the supplier not to disburse any funds or otherwise deal with any funds, property or assets of the supplier, or debts owing to the supplier, except as approved by the court; or
  - (c) contain any other terms the court considers appropriate.
- (3) The amount or value of any funds, property, assets or debt affected by the order is to bear a reasonable relationship to the amount or value of the money or security paid or given to the supplier by the consumer.

(4) The order ceases to have any effect 10 days after the order is made unless it is renewed by the court prior to the expiry date on the application of the director, and the court may renew the order for any period and on any terms that it considers appropriate.

#### **Variation of order**

**20(1)** On notice to the director, a supplier or any other person affected by an order made pursuant to section 19 may apply, within 10 days of the order being made, to the court to have the order varied or set aside.

(2) Where a supplier or other person against whom the order is made is in doubt as to the application of the order to any funds, property, assets or debt, or another person not named in the order claims a right, title or interest in the funds, property, assets or debt, the supplier or other person may pay or deliver the funds, property or assets or the amount of the debt into the court.

#### **Bond in lieu of order**

**21(1)** A supplier who has received money or security from a consumer for a transaction involving goods or services may file or deposit with the director a bond or other security, in a form and an amount and containing terms acceptable to the director, in the name of and for the benefit of the director.

(2) The director may accept the bond or security where, in his or her opinion, there are reasonable grounds to believe that it is not contrary to the public interest to accept the bond or security.

(3) Where the director accepts a bond or security, the director may not apply to the court for an order respecting the transaction for which the bond or security is filed or deposited.

(4) In the event of a breach of any term of a bond or security filed or deposited by a supplier, the director, on notice to the supplier, shall apply to the court for direction as to the forfeiture of the bond or security and the realization and disposition of the proceeds.

#### **Injunction**

**22(1)** Where the director is of the opinion that there are reasonable grounds to believe that it is necessary for the protection of the public, the director may apply to the court *ex parte* for an interim or permanent injunction restraining a supplier from committing or attempting to commit an unfair practice.

(2) In the application for the injunction:

(a) the court shall give greater weight, importance and the balance of convenience to the protection of consumers than to the carrying on of the business of a supplier;

(b) the director shall not be required to post a bond or give an undertaking as to damages; and

(c) the director does not need to establish that irreparable harm will be done to a consumer or any class of consumers if the interim injunction is not granted.

(3) In an appeal of an interim or permanent injunction, the director, the supplier and any other persons that the court may direct are parties to proceedings before the court.

(4) In an appeal, the director has the burden of establishing that the supplier was committing or attempting to commit the unfair practice that gave rise to the injunction.

#### **OFFENCES AND PENALTIES**

**Offences and penalties**

**23**(1) No person shall:

- (a) contravene any provision of this Part, the regulations made pursuant to this Part or an order of the director pursuant to this Part;
- (b) refuse or fail to furnish information as required by this Part, or furnish false information to a person acting pursuant to this Part;
- (c) fail to comply with an order of the court; or
- (d) fail to comply with a voluntary compliance agreement entered into pursuant to this Part unless the agreement has been rescinded by written consent of the director or by the court.

(2) Any individual who contravenes any provision of this Part or the regulations made pursuant to this Part is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$5,000, to imprisonment for a term of not more than one year or to both; and
- (b) for a second or subsequent offence, to a fine of not more than \$10,000, to imprisonment for a term of not more than one year or to both.

(3) Any corporation that contravenes any provision of this Part or the regulations made pursuant to this Part is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$100,000; and
- (b) for a second or subsequent offence, to a fine of not more than \$500,000.

**Offences by officers, directors or agents**

**24** Any officer, director or agent of a corporation who directed, authorized or participated in an act or omission by a corporation that would constitute an offence by that corporation is guilty of that offence whether or not the corporation has been prosecuted or convicted.

**Compensation to consumer**

**25(1)** A court that convicts a person pursuant to this Part, at the time of sentencing, on application of the aggrieved consumer or by the Crown prosecutor on the request and on behalf of the aggrieved consumer, may order the defendant to pay to the aggrieved consumer an amount not exceeding the monetary jurisdiction specified in *The Small Claims Act* as compensation for pecuniary loss suffered by the aggrieved consumer as a result of the commission of the offence.

(2) Where the defendant does not pay the amount ordered within the time specified by the judge or, where no time is specified, within 30 days, the order may be enforced by the consumer in the same manner as a certificate of judgment issued pursuant to *The Small Claims Act*.

(3) No application shall be made where the aggrieved consumer has commenced a civil action against the defendant respecting the transaction that gave rise to the offence.

**Defence**

**26(1)** It is a defence for the person charged with an offence to prove that:

(a) the commission of the offence was due to a mistake or to reliance on information supplied to him or her, or to the act or default of another person, or to an accident or some other cause beyond his or her control; and

(b) he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or herself or any person under his or her control.

(2) Where the defence involves the allegation that the commission of the offence was due to the act or default of another person or reliance on information supplied by another person, the person charged shall not, without leave of the court, rely on that defence unless he or she served a written notice on the prosecutor, at least seven clear days before the trial, giving the information then in his or her possession identifying or assisting in the identification of that person.

**GENERAL****Mediation**

**27(1)** The director, where appropriate, shall make every attempt to direct disputes between consumers and suppliers pursuant to this Part to mediation.

(2) Where both parties agree to mediate their dispute, the director shall not take any further action pursuant to this Part during the period of mediation.

(3) Subject to the consent of both of the parties to a dispute, a mediator shall hold all information received by him or her during a mediation session in confidence.

**Confidentiality**

**28(1)** Every person employed in the administration of this Part, including a person conducting an investigation pursuant to section 10:

- (a) shall preserve secrecy respecting all matters that come to his or her knowledge in the course of his or her employment or duties; and
- (b) shall not communicate those matters to any person except:
  - (i) as required or permitted in connection with the administration of this Part or the regulations made pursuant to this Part or proceedings pursuant to this part or the regulations;
  - (ii) to his or her counsel or to the court in a proceeding pursuant to this Part or the regulations made pursuant to this Part;
  - (iii) to a department or agency of a government that administers statutes, measures or rulings similar to this Part or an Act for the general protection of consumers; or
  - (iv) with the consent of the person to whom the information relates.

(2) Except respecting a proceeding pursuant to this Part or the regulations made pursuant to this Part, no person to whom subsection (1) applies may be compelled to give evidence respecting information obtained by him or her in the course of his or her employment or duties except in a criminal proceeding.

**Unfair practice outside Saskatchewan**

**29** The director may take any action authorized by this Part that the director considers necessary against a supplier in Saskatchewan on behalf of a consumer where the unfair practice occurred outside Saskatchewan.

**Limitation**

**30** No proceedings pursuant to this Part are to be commenced later than two years from the date of the occurrence of the last material event on which the proceedings are based.

**No liability**

**31** Neither the Crown in right of Saskatchewan nor the minister, director or any other person employed in the administration of this Part is liable for any loss or damage suffered by a person by reason of anything done or omitted to be done in good faith in the course of the administration of this Part.

**Part applies**

**32** The provisions of this Part apply notwithstanding any agreement to the contrary, and any waiver or release given of the rights, benefits or protection provided pursuant to this Part is void.

**Rights transferred**

**33** Where, other than in the course of business, an individual, as heir or assignee, receives from a consumer goods or services, that individual has the same rights as the consumer to seek and obtain redress from the supplier pursuant to this Part.

**Other remedies**

**34** Nothing in this Part restricts, limits or derogates from any remedy that a consumer may have under any other

law.

**Advertising**

**35** A person who, on behalf of a supplier, produces or publishes an advertisement in good faith and in the ordinary course of business is not responsible, for the purposes of this Part, for the truth or accuracy of any representation in that advertisement.

**Appeal**

**36** With leave of a judge of the Court of Appeal, an appeal from any order of the court made pursuant to this Part may be made to the Court of Appeal on a question of law within 30 days of the date of the order unless otherwise provided in this Part.

**Parol evidence rule abolished**

**37** Parol or extrinsic evidence establishing the existence of an express warranty is admissible in any action between a consumer and a supplier even though it adds to, varies or contradicts a written contract.

**Regulations**

**38** For the purposes of this Part, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Part but not defined in this Part;
- (b) exempting any class of supplier of goods or services or any class of goods or services or transactions involving goods or services from the application of this Part or any provision of this Part and fixing conditions for that exemption;
- (c) respecting the mediation of disputes;
- (d) prescribing information that must be part of a representation made by a supplier or class of suppliers respecting any transaction or class of transactions involving goods or services;
- (e) respecting the form and manner of service of any document required or authorized to be served pursuant to this Part;
- (f) prescribing any other matter or thing that is required or authorized by this Part to be prescribed in the regulations;
- (g) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part.

**PART III**  
**Consumer Products Warranties**  
**INTERPRETATION AND APPLICATION**

**Interpretation of Part**

**39** In this Part:

- (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:

- (i) the description of the product;
- (ii) its purchase price; and
- (iii) 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*;

(b) **"additional written warranty"** means any undertaking in writing by a warrantor that the warrantor will repair, replace, make a refund or take other remedial action respecting a consumer product that breaks down, malfunctions or fails to meet the specifications in the undertaking, and includes a service contract, but does not include an express warranty:

- (i) that is similar to an expression of general policy concerning customer satisfaction; and
- (ii) that is not subject to any specific limitation;

(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:

- (A) the description of the product;
- (B) its purchase price;
- (C) 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;

(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 respecting 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 is a consumer respecting that product, except that where goods are consumer products within the meaning of subclause (e)(ii) the individual or the corporation is a consumer for the purposes of this Part;

(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*;

(f) **“express warranty”** means an express warranty as described in section 45;

(g) **“family farming corporation”** means a corporation the principal object and business of which is farming or fishing and with respect to which:

(i) at least 95% of the shares are owned wholly by persons related to one another by blood, marriage or adoption; and

(ii) at least 51% of the shares are owned by a shareholder or shareholders principally occupied in the farming or fishing operations of the corporation;

(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 or her brand name or causes or permits his or her brand name to be attached to consumer products;

(ii) any person who describes himself or herself or holds himself or herself 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 those products;



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

(j) **"product"** means a consumer product;

(k) **"purchase price"** means, subject to subsection 58(1), the total value of the consideration or any part of the consideration that has been paid by the consumer to the retail seller or his or her assignee for a consumer product and includes those finance charges or other credit costs that the consumer has reasonably incurred respecting the product;

(l) **"retail seller"** means a person who sells consumer products to consumers in the ordinary course of his or her business but, subject to subsection 50(1), does not include a trustee in bankruptcy, receiver, liquidator, sheriff, auctioneer or person acting under an order of a court;

(m) **"sale"** means a transaction in which 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 Part to "buy", "buying", "bought", "sell", "sold" or "selling" is to be construed accordingly;

(n) **"sale by sample"** means a sale in which there is a term in the contract of sale express or implied, to the effect that the sale is a sale by sample;

(o) **"second-hand dealer"** means a retail seller whose sales of second-hand consumer products constitute at least 85% of the retail seller's 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;

(p) **"service contract"** means a contract in writing for performance:

(i) over a fixed period; or

(ii) 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 those services;

(q) **"statutory warranty"** means the warranties described in section 48;

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

#### Part not self-contained code

40(1) The rights and remedies provided in this Part are in addition to any other rights or remedies under any other law in force in Saskatchewan unless a right or remedy under that law is expressly or impliedly contradicted by this Part.

(2) No provisions of this Part are to be construed as repealing, invalidating or superseding the provisions of any other law in force in Saskatchewan unless this Part by express provision or by necessary implication clearly intends

those provisions to be so construed.

**Subsequent owners**

**41(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, are, regardless of their place in the sequence of dealings respecting the product, deemed:

- (a) to be given by the retail seller or manufacturer the same statutory warranties that the consumer was deemed to have been given pursuant to sections 48 and 50;
- (b) to receive from the warrantor the same additional written warranties that the consumer received and, for the purposes of any provision of this Part, unless otherwise provided in this Part:
  - (i) have rights and remedies against the retail seller, manufacturer or warrantor equal to but not greater than the rights and remedies the consumer has pursuant to this Part; and
  - (ii) are subject to any defences or rights of set-off that could be raised against the consumer pursuant to this Part.

(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 has any rights pursuant to subsection (1) respecting that product.

**Second-hand or substandard consumer products**

**42** Subject to section 43, this Part 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 are material facts in determining the characteristics and qualities that consumers can reasonably expect that product to have.

**Second-hand dealers**

**43(1)** A second-hand dealer is entitled to rely on a provision in a contract for the sale of a second-hand consumer where the second-hand dealer proves that, before he or she entered into the contract, the provision that excludes or modifies any or all of the statutory warranties mentioned in clauses 48(d), (e) and (g) was:

- (a) brought to the notice of the consumer; and
- (b) made clear to the consumer respecting its effect.

(2) An exclusion or modification mentioned in subsection (1) does not, in any way, limit or affect a manufacturer's liability pursuant to subsection 50(2) respecting that product.

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

**44(1)** Subject to subsection 43(1), every agreement or bargain, verbal or written, express or implied that states or implies any of the following is void:

- (a) that the provisions of this Part or the regulations made pursuant to this Part do not apply;
- (b) that any right or remedy provided by this Part or the regulations made pursuant to this Part do not apply;
- (c) that any right or remedy provided by this Part or the regulations made pursuant to this Part is in any way limited, modified or abrogated.

(2) Notwithstanding subsection (1), where the parties to a dispute pursuant to this Part are able to resolve their dispute through mediation, arbitration or another process, the parties' rights pursuant to this Part are extinguished respecting that dispute.

## EXPRESS WARRANTIES

### Express warranties

**45**(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 is 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) Subsection (1) applies to a promise, representation, affirmation of fact or expression of opinion made verbally or in writing directly to a consumer or through advertising by a retail seller or manufacturer, or his or her agent or employee who has actual, ostensible or usual authority to act on his or her behalf.

(3) No express warranty is to disclaim, exclude or limit a statutory warranty prescribed by section 48.

### Parol evidence rule abolished

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

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

**47**(1) A retail seller is a party to express warranties contained on labels or packages accompanying or attached to a consumer product sold by the retail seller to a consumer unless the retail seller has made it clear to the consumer prior to the sale that the retail seller does not adopt the express warranties.

(2) Subject to subsection (3), no retail seller is a party to any express warranties contained in any advertisement originating from or carried out by a manufacturer unless the retail seller expressly or impliedly adopts those 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, for the purposes of clause 48(c), are deemed to be part of the description of the product.

## STATUTORY WARRANTIES

### Statutory warranties

**48** Where a consumer product is sold by a retail seller, the following warranties are deemed to be given by the retail seller to the consumer:

(a) that the retail seller has a right to sell the product;

(b) that:

(i) 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

- (ii) the consumer will enjoy quiet possession of the product except to the extent that 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;
- (c) where the sale of the product is a sale by description, that the product corresponds with the description;
- (d) that the product supplied under the contract is of acceptable quality, except that this warranty is deemed not to be given:
  - (i) respecting defects specifically drawn to the consumer's attention before the contract is made; or
  - (ii) where the consumer examines the product before the contract is made, respecting defects that examination ought to have revealed;
- (e) 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 the product is commonly supplied, except that this warranty is deemed not to be given where the circumstances show that:
  - (i) the consumer does not rely on the retail seller's skill or judgment; or
  - (ii) it is unreasonable for the consumer to rely on the retail seller's skill or judgment;
- (f) where the sale of the product is a sale by sample:
  - (i) that the bulk of the product corresponds in quality with the sample;
  - (ii) that the consumer is to have a reasonable opportunity to compare the bulk of the product with the sample;
  - (iii) that the product is free from any defect that renders it not of acceptable quality and that would not be apparent on reasonable examination of the sample;
- (g) that the product and all its components are to be durable for a reasonable period, having regard to all the relevant circumstances of the sale, including:
  - (i) the description and nature of the product;
  - (ii) the purchase price;
  - (iii) the express warranties of the retail seller or manufacturer; and
  - (iv) the necessary maintenance the product normally requires and the manner in which it has been used;
- (h) where the product normally requires repairs, that spare parts and repair facilities will be reasonably available for a reasonable period after the date of sale of the product.

**Sale by description**

**49** No sale of consumer products is 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.

**Manufacturers deemed to give statutory warranties**

**50(1)** For the purposes of subsection (2), "**retail seller**" includes those persons who are excluded from the definition of retail seller in clause 39(1).

(2) Subject to subsection (3), the manufacturer of consumer products is deemed to give to consumers of those products the same statutory warranties respecting those products as the retail seller is deemed to have given pursuant to clauses 48(b) to (h).

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

(a) no provision of clause 48(b) applies respecting 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 the manufacturer's part;

(b) no manufacturer is 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 clause 48(d), the consumer is deemed to have notice of a defect if disclosure of the 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 clause 48(e) applies where, without the consent of the manufacturer, any consumer product:

(i) is sold by a retail seller to a consumer as being fit for a purpose that is not the ordinary purpose of the product; or

(ii) at the time of sale, is in such a state, age or condition that it is unreasonable for the consumer to conclude that it is fit for the purpose for which it is commonly supplied.

### **Onus of proof**

**51(1)** There is a presumption of breach of warranties by a manufacturer where:

(a) a consumer, a person mentioned in subsection 41(1) who derives his or her property or interest in a consumer product from or through a consumer, or a person mentioned in section 64 brings an action against a manufacturer for breach of one or more statutory warranties set out in clauses 48(d) and (e);

(b) 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

(c) 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.

(2) The presumption in subsection (1) 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.

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

**52(1)** Where a retail seller is sued for a breach of a statutory warranty by a consumer, by a person mentioned in subsection 41(1) or by a person mentioned in section 64, 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, whether or not the retail seller bought the consumer product directly from the manufacturer, to recover from the manufacturer, in the manner described in subsection (2), any losses that:

(a) the retail seller may suffer as a result of the suit: and

(b) are the responsibility of the manufacturer pursuant to this Part.

(2) A retail seller who intends to recover losses from a manufacturer in accordance with subsection (1), on being served with the documents initiating a suit against the retail seller, shall immediately:

(a) advise the manufacturer that proceedings have been commenced and that the retail seller intends to recover from the manufacturer; and

(b) forward to the manufacturer, by registered mail, a copy of the documents initiating the suit.

## ADDITIONAL WRITTEN WARRANTIES

**Retail seller deemed warrantor**

**53**(1) Where an additional written warranty accompanies or is attached to a consumer product sold by a retail seller, the retail seller is deemed to be a warrantor respecting the additional written warranty regardless of whether or not the additional written warranty is given by another warrantor.

(2) Subsection (1) does not apply where the retail seller has, in writing prior to the sale, made it clear to the consumer that the retail seller does not adopt the additional written warranty as the retail seller's own.

(3) 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 on the additional written warranty is irrelevant.

**Additional written warranty concurrent with statutory warranty**

**54** No provision of this Part shall be construed so as to require that the terms of an additional written warranty be consecutive to or added to the terms of a statutory warranty.

## REMEDIES

**No privity of contract required**

**55** In any action brought pursuant to this Part 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 is not a defence, and the retail seller, manufacturer or warrantor is conclusively presumed to have received consideration.

**Remedies are additional**

**56** Sections 57 to 63:

- (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 respecting any reference to express warranties, apply with any necessary modifications to any person mentioned in subsection 41(1) who derives his or her property or interest in a consumer product from or through the consumer.

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

**57(1)** Where there is a breach by a manufacturer or retail seller of a statutory warranty mentioned in section 48 or of an express warranty mentioned in section 45:

(a) and where the breach is remediable and not of a substantial character:

(i) the party in breach shall, within a reasonable period, make good the breach free of charge to the consumer but, where the breach has not been remedied within a reasonable period, 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; and

(ii) the consumer is entitled to recover damages for losses that he or she 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, at his or her option, may exercise the remedies pursuant to clause (a) or, subject to subsections (2) and (3), the consumer may:

(i) reject the consumer product; and

(ii) if he or she exercises his or her right to reject, he or she is entitled to recover the purchase price from the party in breach and to recover damages for any other losses that he or she has suffered and that were reasonably foreseeable as liable to result from the breach.

(2) The consumer shall exercise his or her right to reject the consumer product pursuant to clause (1)(b) within a reasonable period pursuant to subsection (3), except where the consumer delays the exercise of his or her right to reject because he or she has relied on assurances made by the party in breach or the party's agent that the breach would be remedied and the breach was not 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 41(1), a reasonable period:

(a) runs from the time of delivery of the product to the consumer; and

(b) consists of a period sufficient to permit any testing, trial or examination of the consumer product that 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 pursuant to this Part on the party in breach.



**Where subsequent owner claims purchase price**

**58(1)** Subject to subsection (2), where a person mentioned in subsection 41(1) rejects a consumer product pursuant to clause 57(1)(b), the purchase price he or she is entitled to claim:

- (a) is the total value of the consideration or the part that has been paid by him or her for the consumer product; and
- (b) includes those finance charges or other credit costs that he or she has reasonably incurred respecting the product.

(2) In no case shall a person mentioned in subsection 41(1) be entitled to claim a purchase price greater than the purchase price paid by the consumer to the retail seller or his or her assignee.

**Where party in breach must repair product**

**59(1)** Where the provisions of subsection 57(1) 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 the retail seller is the party in breach;
- (b) the manufacturer, where the manufacturer is the party in breach; or
- (c) either of them, where both are in breach.

(2) No consumer is 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.

(3) In the circumstances mentioned in subsection (2) the party in breach shall collect and arrange for the transportation and return of the product at his or her own expense or shall cause the repair to be made at the site where the product is located.

(4) For the purposes of subclause 57(1)(a)(i), the reasonable period runs from the time when the party in breach receives the consumer product but, where subsection (2) applies, the reasonable period runs from the time when the consumer advises the party in breach of the defect in the consumer product.

**Where consumer rejects product**

**60** Where a consumer rejects a consumer product pursuant to clause 57(1)(b):

- (a) and where the party in breach is the manufacturer, the manufacturer is 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 has 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 or she rejects it;
- (c) the party in breach is 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 is to be taken of the depreciation of the product unless it is otherwise provided for by the regulations;
- (d) the consumer is entitled to retain possession of the rejected product as against the manufacturer and retail seller until he or she recovers the purchase price he or she paid, and as against an assignee until he or

she recovers the amount he or she paid to the assignee; and

(e) and where the party in breach pays the purchase price to the consumer as provided by this section, the consumer shall ensure that the product is free of any encumbrances for which he or she is responsible.

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

**61** 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 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:

(a) have the defect remedied elsewhere; and

(b) 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.

#### **Additional repair costs**

**62** 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 consumer has agreed in writing to pay for the additional repair costs not covered by the warranty.

### **DAMAGES, COSTS AND LIMITATION OF ACTIONS**

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

**63(1)** Where a manufacturer, retail seller or warrantor disassembles or dismantles a consumer product in order to repair the product to fulfil the requirements of subclause 57(1)(a)(i) or the requirements of an additional written warranty for which he or she 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:

(a) he or she agreed in writing to pay such costs; and

(b) his or her attention was specifically drawn to the clause or clauses of the agreement in which he or she agreed to pay those costs.

(2) Where a manufacturer, retail seller or warrantor is not entitled to recover the cost of disassembling or dismantling a consumer product pursuant to subsection (1), the manufacturer, retail seller or warrantor shall reassemble the product at its 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 subsection (2), or where the manufacturer, retail seller or warrantor is not entitled to payment for repairs to a consumer product but claims a lien and refuses to give up possession of the product, the consumer is entitled to recover damages:

(a) for losses that he or she suffered; and

(b) 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.

**User may recover damages**

**64** 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 clauses 48(c) to (f) is entitled, as against the retail seller or manufacturer, to recover damages arising from personal injuries that he or she has suffered and that were reasonably foreseeable as liable to result from the breach.

**Exemplary damages**

**65(1)** In addition to any other remedy provided by this Part or any other law in force in the province, a consumer or a person mentioned in subsection 41(1) or in section 64 may recover exemplary damages from any manufacturer, retail seller or warrantor who has committed a wilful violation of this Part.

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

**Party-party costs**

**66(1)** No costs shall be awarded against a consumer, a person mentioned in subsection 41(1) who derives his or her property or interest in a consumer product from or through a consumer, or a person mentioned in section 64, who:

- (a) brings an action against a manufacturer, retail seller or warrantor for breach of a warranty pursuant to this Part; 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 pursuant to this Part.

(2) Subsection (1) applies regardless of whether the consumer or other person is successful in his or her action, defence or counterclaim unless, in the opinion of the court, the action, defence or counterclaim was frivolous or vexatious.

**Limitation of actions**

**67** An action for breach of warranty brought pursuant to this Part must be commenced within two years from the time the breach of warranty is first discovered by the person bringing the action.

## RESOLUTION OF DISPUTES

**Service of documents**

**68** In disputes arising pursuant to this Part, 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, the manufacturer's, retail seller's or warrantor's place of business and, where the manufacturer, retail seller or warrantor carries on business at more than one place of business, by leaving it at, or sending it by registered mail to, any of those places of business; or

(ii) by personally serving any employer or employee at the manufacturer's, retail seller's or warrantor's place of business.

### **Jurisdiction**

**69(1)** Subject to any regulations made by the Lieutenant Governor in Council pursuant to section 71, consumers, persons mentioned in subsection 41(1) and persons mentioned in section 64 who buy or use consumer products purchased in Saskatchewan, and manufacturers, retail sellers or warrantors who carry on business in Saskatchewan, are subject to the provisions of this Part and to the jurisdiction of the courts of Saskatchewan.

(2) For the purposes of this Part, a manufacturer, retail seller or warrantor is deemed to carry on business in Saskatchewan if the manufacturer, retail seller or warrantor:

- (a) holds title to land in Saskatchewan or any interest in land in Saskatchewan for the purposes of carrying on business in Saskatchewan;
- (b) maintains an office, warehouse or place of business in Saskatchewan;
- (c) is licensed or registered pursuant to any statute of Saskatchewan entitling the manufacturer, retail seller or warrantor to do business or to sell securities of the manufacturer's, retail seller's or warrantor's own issue;
- (d) has its name and telephone number 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;
- (e) an agent, salesman, representative or other person conducts business in Saskatchewan on the manufacturer's, retail seller's or warrantor's behalf;
- (f) directly or indirectly markets consumer products in Saskatchewan; or
- (g) otherwise carries on business in Saskatchewan.

#### **Effect of breach of standards**

**70**(1) In any action arising pursuant to this Part, 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 is evidence that the consumer product is not of acceptable quality or fit for the purpose for which it was bought.

(2) Proof that a consumer product complies with the standards mentioned in subsection (1) is not evidence that the consumer product is of acceptable quality or fit for the purpose for which it was bought.

(3) Subsection (1) does not apply where non-compliance with the mandatory health or safety standards described in that subsection is not in any way related to or otherwise connected with the quality or fitness of the consumer product.

#### **GENERAL**

#### **Regulations**

**71** For the purposes of this Part, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Part but not defined in this Part;
- (b) declaring that this Part or any provisions of this Part 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;
- (c) 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;
- (d) regulating, for the purposes of clause 48(h), the availability of spare parts and reasonable repair facilities for consumer products that normally require repairs, including:
  - (i) declaring what constitutes 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 clause 48(h) applies to specified repair facilities or spare parts for specified consumer products or classes of consumer products; and

(iv) declaring what is a reasonable period for availability of reasonable repair facilities or spare parts for different consumer products or classes of consumer products;

(e) regulating the advertising by manufacturers, retail sellers or warrantors of any of the warranties covered by this Part;

(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 60(c);

(g) prescribing, for the purposes of section 70, the standards of quality for consumer products;

(h) prescribing, for the purposes of subsection 59(4), the periods 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) prescribing any other matter or thing that is required or authorized by this Part to be prescribed in the regulations;

(j) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part.

PART IV  
**Unsolicited Goods and Credit Cards**

**Interpretation of Part**

72 In this Part:

(b) **"unsolicited credit card"** means a card, document or similar instrument, the receipt of which has not been requested in writing by the person to whom the card, document or instrument was sent, by which goods or services may be purchased on deferred payment, or by means of which cash may be received;

(b) **"unsolicited goods"** means personal property, the receipt of which has not been requested by the recipient, but does not include personal property delivered to a person that the person knows or ought to know are intended for delivery to another person.

**Legal obligation of recipients**

73(1) Where unsolicited credit cards are received, the recipient has:

(a) no legal obligation to the sender; and

(b) no obligation respecting any transaction in which those credit cards are used unless and until the recipient acknowledges to the sender in writing his or her intention to accept the unsolicited credit card.

(2) Where unsolicited goods are received, the recipient has no legal obligation to the sender unless and until the recipient acknowledges to the sender in writing his or her intention to accept the unsolicited goods.

**No action for loss, etc., in absence of acknowledgement**

74 In the absence of an acknowledgement mentioned in section 73, no action lies in the event of loss, misuse, damage, misappropriation or otherwise of the unsolicited credit card or unsolicited goods or for the value of goods, services or cash obtained by use of the unsolicited credit card.

**Renewal cards**

75 A credit card that renews or replaces another credit card previously used by the recipient is not an unsolicited credit card.

PART V  
**Repeals and Coming into Force**

**R.S.S. 1978, c.C-30 repealed**

76 *The Consumer Products Warranties Act* is repealed.

**R.S.S. 1978, c.U-8 repealed**

77 *The Unsolicited Goods and Credit Cards Act* is repealed.

**Coming into force**

78 This Act comes into force on proclamation.