

1988-89

CHAPTER S-17.1An Act to provide for Security for
Saskatchewan Family Farms

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(Assented to June 21, 1988)

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

PART I

Title and Interpretation

Short title

1 This Act may be cited as *The Saskatchewan Farm Security Act*.

Interpretation

2(1) In this Act:

“agricultural corporation”

- (a) **“agricultural corporation”** means a corporation:
- (i) that is engaged in the business of farming; and
 - (ii) the majority of issued voting shares of which are legally and beneficially owned by producers who are resident persons;

“board”

- (b) **“board”** means the Farm Land Security Board continued pursuant to section 5;

“child”

- (c) **“child”** means, other than in Part VI:
- (i) an unmarried person under 18 years of age; or
 - (ii) an unmarried person over 18 years of age who is in full time attendance at an educational institution;

and includes a stepchild, adopted child or child over whom a producer stands in *loco parentis*;

“court”

- (d) **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan;

“family”

- (e) **“family”** means spouse and children;

“farm land”

- (f) **“farm land”** means other than in Part VI, real property in Saskatchewan that is situated outside a city, town, village, hamlet or resort village and that is used for the purposes of farming, but does not include:
- (i) minerals contained in, on or under that real property; and
 - (ii) land used primarily for the purpose of extracting, processing, storing or transporting minerals;

“farming”

- (g) **“farming”** includes livestock raising, poultry raising, dairying, tillage of the soil, bee-keeping, fur farming or any other activity undertaken to produce primary agricultural produce and animals;

“homestead”

- (h) **“homestead”** means:
- (i) the house and buildings occupied by a farmer as his bona fide farm residence; and
 - (ii) the farm land on which the house and buildings mentioned in subclause (i) are situated, not exceeding 160 acres or one quarter section, whichever is greater;

“implement”

- (i) **“implement”** means:
- (i) any implement, equipment or machine that is used or intended for use by a producer on a farm for the purpose of farming;
 - (ii) a motor vehicle classified in regulations made pursuant to *The Vehicles Act, 1983* or *The Highway Traffic Act* as a farm vehicle;

“judge”

- (j) **“judge”** means a judge of the court;

“livestock”

- (k) **“livestock”** includes any cattle, horse, mule, ass, swine, sheep or goat;

“local registrar”

- (l) **“local registrar”** means a local registrar or deputy local registrar of the court;

“mediator”

- (m) **“mediator”** means a person appointed as a mediator pursuant to section 8;

“minister”

- (n) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“mortgage”

- (o) **“mortgage”** means any mortgage of farm land, including:
- (i) a mortgage granted to:
 - (A) the Agricultural Credit Corporation of Saskatchewan pursuant to *The Agricultural Credit Corporation of Saskatchewan Act*; or
 - (B) the Farm Credit Corporation pursuant to the *Farm Credit Act* (Canada), as amended from time, or by any other corporation created by or pursuant to any other Act of the Parliament of Canada;
 - (ii) an agreement for the sale of land; and
 - (iii) an agreement renewing or extending a mortgage or agreement for sale;

“mortgagee”

- (p) **“mortgagee”** includes:
- (i) a vendor under an agreement for the sale of farm land;
 - (ii) a personal representative, successor or assignee of a vendor mentioned in subclause (i) or a mortgagee; and
 - (iii) a person claiming through a vendor mentioned in subclause (i) or a mortgagee;

“mortgagor”

- (q) **“mortgagor”** includes:
- (i) a purchaser under an agreement for the sale of farm land;
 - (ii) a personal representative, successor or assignee of a purchaser mentioned in subclause (i) or a mortgagor; and
 - (iii) a person claiming through a purchaser mentioned in subclause (i) or a mortgagor;

“non-agricultural corporation”

(r) **“non-agricultural corporation”** means a corporation that is not an agricultural corporation;

“non-resident person”

(s) **“non-resident person”** means a person who is not a resident person;

“ownership board”

(t) **“ownership board”** means the Saskatchewan Farm Ownership Board continued pursuant to section 77;

“producer”

(u) **“producer”** means an individual who is engaged in the business of farming;

“purchase money security interest”

(v) **“purchase money security interest”** means a security interest that is taken or reserved by a vendor to secure payment of all or any part of the sale price of personal property;

“recognized financial institution”

(w) **“recognized financial institution”** means:

(i) a bank that is governed by the *Bank Act* (Canada), as amended from time to time;

(ii) a credit union that is incorporated or continued pursuant to *The Credit Union Act, 1985*;

(iii) a trust corporation that holds a valid and subsisting licence issued pursuant to *The Trust and Loan Corporations Act*;

(iv) the Agricultural Credit Corporation of Saskatchewan that is continued pursuant to *The Agricultural Credit Corporation of Saskatchewan Act*; or

(v) the Farm Credit Corporation constituted pursuant to the *Farm Credit Act* (Canada), as amended from time to time;

“resident person”

(x) **“resident person”** means an individual who resides in Saskatchewan for at least 183 days in any year;

“secured party”

(y) **“secured party”** means a person who has a security interest and includes a recognized financial institution that has a security interest;

“security agreement”

(z) **“security agreement”** means an agreement that creates or provides for a security interest;

“security interest”

(aa) **“security interest”** means an interest in personal property that secures payment or performance of an obligation;

“spouse”

(bb) **“spouse”** means:

(i) the legal spouse of a person; or

(ii) if a person does not have a legal spouse or is living separate and apart from his legal spouse, a common law spouse of that person.

(2) In clause 2(1)(h), “**farmer**” means “**farmer**” as defined in Part II, III or V, as the case may be.

PART II

Farm Land Security

Interpretation

3 In this Part:

“action”

(a) “**action**” means an action in court with respect to farm land by a mortgagee for:

- (i) foreclosure of the equity of redemption;
- (ii) sale or possession of the mortgaged farm land;
- (iii) recovery of any money payable under a mortgage;
- (iv) specific performance or cancellation of an agreement for sale;
- (v) sale or possession of the farm land sold under the agreement for sale; or
- (vi) any other relief that may be granted under the agreement for sale;

“The Farm Land Security Act”

(b) “**The Farm Land Security Act**” means *The Farm Land Security Act* as that Act existed on the day before the coming into force of this Part;

“farmer”

(c) “**farmer**” means a mortgagor.

Purpose

4 The purpose of this Part is to afford protection to farmers against loss of their farm land.

Farm Land Security Board continued

5(1) The Farm Land Security Board is continued consisting of those persons appointed as members by the Lieutenant Governor in Council.

(2) Any person who is a member of the board on the day before the coming into force of this Part continues as a member of the Board until:

- (a) that person resigns or is removed from the board by the Lieutenant Governor in Council; or
- (b) a successor is appointed pursuant to this Act.

(3) The Lieutenant Governor in Council may designate:

- (a) one of the members as chairman; and
- (b) one or more members as vice-chairmen.

(4) The board may:

- (a) appoint committees consisting of any individuals; and
- (b) delegate to committees appointed pursuant to clause (a) any of its powers under section 12 that it considers appropriate in connection with carrying out its duties pursuant to this Act.

(5) In performing their duties pursuant to this Act, the board and its committees have all the powers of commissioners pursuant to *The Public Inquiries Act*.

(6) The board may make rules governing its procedure.

Employees

6(1) The board may:

(a) employ, engage the services of or retain any officers or other employees that are required for the proper conduct of its business; and

(b) determine the duties, powers, conditions of employment and remuneration of officers and employees employed, engaged or retained pursuant to clause (a).

(2) The board may:

(a) engage the services of any legal counsel, consultants and technical advisors that it considers appropriate to assist it in carrying out its responsibilities; and

(b) pay any fees and expenses it considers appropriate to the legal counsel, consultants and technical advisors engaged pursuant to clause (a).

Act to apply

7 *The Public Service Superannuation Act* applies to any officers and other employees that may be employed by the board pursuant to subsection 6(1).

Mediators

8(1) The minister may appoint persons as mediators for the purpose of this Act.

(2) The minister may appoint a person as the manager of mediation services.

Actions prohibited, continued or discontinued

9(1) Notwithstanding any other Act or law or any agreement entered into before, on or after the coming into force of this Act:

(a) *The Land Contracts (Actions) Act* does not apply to farm land and any existing actions with respect to farm land pursuant to that Act are deemed to be discontinued;

(b) all applications made and all notices given pursuant to section 9 of *The Farm Land Security Act* are continued pursuant to section 11 of this Act;

(c) all actions commenced following an order of the court pursuant to section 9 of *The Farm Land Security Act* are continued;

(d) subject to sections 11 to 21, no person shall commence an action with respect to farm land;

(e) where an order is made pursuant to section 9 of *The Farm Land Security Act*, declaring that any provision of sections 8 and 10 of *The Farm Land Security Act* does not apply, the order made pursuant to section 9 of *The Farm Land Security Act* is continued;

(f) where an order has been made pursuant to section 9 of *The Farm Land Security Act* with respect to a homestead providing that section 7 or 8 of that Act do not apply and a final order of foreclosure has not been granted:

(i) the order made pursuant to section 9 and any order *nisi* are vacated with respect to the homestead; and

(ii) the mortgagee may make an application pursuant to section 11.

(2) Subject to subsection (3), where a notice pursuant to section 9 of *The Farm Land Security Act* is continued pursuant to clause (1)(b), this Act shall apply.

(3) Where a notice pursuant to section 9 of *The Farm Land Security Act* is continued pursuant to clause (1)(b), no application has been made and the board has already commenced mediation between the farmer and the mortgagee:

(a) the board shall continue to mediate between the farmer and the mortgagee up to 150 days from the date the notice was served on the board; and

(b) subsections 12(2), (5), (7) to (10) and clause 12(4)(c) do not apply.

Extension of time for redemption

10 Subject to section 11, notwithstanding the terms of any order *nisi* in an action made prior to December 4, 1984, the time for redemption under the order is *extended sine die*.

No action without court order

11(1) Where a mortgagee makes an application with respect to a mortgage on farm land, the court may, on any terms and conditions that it considers just and equitable:

(a) order that clause 9(d) or section 10 does not apply; or

(b) make an order for the purposes of clause 9(f).

(2) Where an order is made pursuant to subsection (1), the mortgagee may commence or continue an action with respect to that mortgage.

(3) Any action that is commenced without an order pursuant to this section is a nullity, and any order made with respect to an action or a proposed action without an order pursuant to this section is void.

Notice to board and farmer

12(1) Subject to subsection (14), a mortgagee may apply to the court for an order pursuant to section 11 but only after the farmer expiry of 150 days from the date of service of a notice of intention on:

(a) the board; and

(b) the farmer.

(2) On receiving a notice of intention pursuant to subsection (1), the board shall provide a copy of the notice to the manager of mediation services appointed pursuant to section 8 who:

(a) shall designate a mediator for the purposes of this section; and

(b) forward to the mediator designated pursuant to clause (a) the copy of the notice.

(3) Within 60 days following service of a notice of intention on the board pursuant to subsection (1), the board shall complete an investigation into the financial affairs of the farmer.

(4) Prior to the commencement of mediation, the board shall provide a copy of the report of the investigation conducted pursuant to subsection (3) to:

(a) the farmer;

(b) the mortgagee; and

(c) the mediator.

- (5) On receipt of the report mentioned in subsection (4), the mediator shall attempt to mediate between the farmer and the mortgagee.
- (6) For the purposes of subsection (5), the mediation period is not to exceed:
- (a) 105 days following service on the board of the notice of intention mentioned in subsection (1); or
 - (b) any period, other than that described in clause (a), that the farmer and the mortgagee agree to.
- (7) On the expiry of the mediation period mentioned in subsection (6), the mediator may file a mediation certificate with the board stating:
- (a) that, in his opinion, either party did not participate in mediation in good faith; and
 - (b) his reasons for that opinion.
- (8) Where the mediator files a mediation certificate, the certificate is required to be in the prescribed form.
- (9) For the purposes of subsection (7), “not participating in mediation in good faith” includes:
- (a) failure on a regular or continuing basis to attend and participate in mediation sessions without cause;
 - (b) failure to provide full information regarding the financial affairs of the parties in relation to the matter before the mediator;
 - (c) failure of the mortgagee to designate a representative to participate in the mediation with the authority to make binding commitments within:
 - (i) 10 business days of a mediation session; or
 - (ii) any further time that the mediator permits;to fully settle, compromise or otherwise mediate the matter;
 - (d) failure to provide debt restructuring alternatives or reasons why alternatives are unacceptable;
 - (e) other similar behaviour which evidences lack of good faith.
- (10) A failure to agree to reduce, restructure, refinance, forgive or otherwise resolve debt is not evidence, in itself, that a party has not participated in mediation in good faith.
- (11) On expiry of the mediation period mentioned in subsection (6), the board may meet with the farmer and the mortgagee in order to prepare its report for the consideration of the court with respect to granting an order pursuant to section 11.
- (12) The board shall make a written report and the report:
- (a) shall include any matter that the board considers relevant to the application including, without limiting the generality of the foregoing:
 - (i) any mediation certificate mentioned in subsection (7);
 - (ii) whether the farmer has a reasonable possibility of meeting his obligations under the mortgage;

- (iii) whether the farmer is making a sincere and reasonable effort to meet his obligations under the mortgage;
 - (iv) whether the farm land which is the subject of the action is a homestead and whether the mortgage respecting that homestead was entered into prior to the coming into force of this Part;
 - (v) an explanation, if any, of where the farmer has allocated his financial resources during the period in which the mortgage has been in arrears, and why the resources were so allocated;
- (b) may include:
- (i) the value, condition and productive capacity of the land;
 - (ii) the state of accounts between the farmer and the mortgagee;
 - (iii) the earning capacity, income and assets of the farmer and his spouse;
 - (iv) the proportion of the income of the farmer and his spouse that is required to meet his debt obligations;
 - (v) any general or local agricultural, economic, market or climatic conditions, including hail, flood, drought, frost or agricultural pests, commodity prices or costs of production;
 - (vi) estimates of future commodity prices for the commodities produced by that farmer and the effect that those prices would have on his income;
 - (vii) whether the farmer has requested or received financial assistance from any source;
 - (viii) whether the farmer would have a reasonable possibility of meeting that mortgage obligation if it were based on the current fair market value of the land;
 - (ix) any conditions and circumstances beyond the control of the farmer including his inability to market an agricultural commodity.
- (13) The board shall:
- (a) complete the report mentioned in subsection (12) prior to expiry of the 150-day period mentioned in subsection (1); and
 - (b) on completion of the report mentioned in subsection (12), provide a copy of the report to:
 - (i) the farmer; and
 - (ii) the mortgagee.
- (14) Where parties extend mediation pursuant to subsection (6) the periods mentioned in this section are extended by the periods agreed to pursuant to subsection (6).
- (15) The board shall submit its report to the court on notice from the mortgagee that an application has been made to the court for an order pursuant to section 11.

Presumption of viability and sincerity

13 Where an application is made for an order pursuant to section 11, the court:

- (a) shall presume that the farmer:
 - (i) has a reasonable possibility of meeting his obligations under the mortgage; and
 - (ii) is making a sincere and reasonable effort to meet his obligations under the mortgage;
- (b) shall consider and shall give primary consideration to a report of the board made pursuant to section 12;
- (c) may consider any conditions and circumstances in addition to the report of the board that it considers relevant to the application including any matters in clauses 12(12)(a) and (b);
- (d) may make any further inquiries with respect to the application that it considers necessary, including requiring the parties to furnish particulars with respect to any matters set out in the board report; and
- (e) may adjourn the application for any period that it considers appropriate.

Mediator's certificate

14 Notwithstanding sections 11 and 17, where:

- (a) an application for an order is made pursuant to section 11; and
- (b) a mediator's certificate is filed pursuant to subsection 12(7) with respect to the application mentioned in clause (a) indicating that the farmer has not participated in good faith;

the court may grant the application.

Court supervised mandatory mediation

15(1) Where:

- (a) an application for an order is made pursuant to section 11; and
- (b) a mediator's certificate is filed pursuant to subsection 12(7) with respect to the application mentioned in clause (a) indicating that the mortgagee has not participated in mediation in good faith;

the farmer may request that the court order supervised mandatory mediation.

(2) On the request of the farmer pursuant to subsection (1), the court:

- (a) shall order supervised mandatory mediation; and
- (b) where it makes an order described in clause (a):
 - (i) shall require both parties to mediate in good faith for a period to be determined by the court but not to be more than 60 days; and
 - (ii) may make any additional orders that it considers necessary to effect good faith mediation.

(3) Where the court has ordered supervised mandatory mediation pursuant to subsection (2):

- (a) the local registrar shall forward a copy of the order to the manager of mediation services appointed pursuant to section 8; and
- (b) the mortgagee shall not take any further proceeding with respect to the mortgage debt during the mediation period.

(4) Where the manager of mediation services receives a copy of an order made pursuant to subsection (2), he shall designate a mediator for the purposes of this section.

(5) Where:

- (a) the mediation period determined pursuant to subsection (2) has expired; and
- (b) the court finds the mortgagee has not participated in the mediation in good faith;

it shall adjourn the mortgagee's application for an order pursuant to section 11 for an additional period of 180 days.

(6) In determining whether or not the mortgagee participated in good faith pursuant to subsection (5), the court may consider the factors outlined in subsection 12(9).

Power of court to award costs

16 Where an application for an order has been made pursuant to section 11, the court may award costs where either party has not participated in mediation in good faith.

Homestead

17(1) Where:

- (a) an application for an order has been made pursuant to section 11; and
- (b) the court is satisfied that:
 - (i) property which is the subject of the action is a homestead;
 - (ii) the mortgage relating to the homestead was entered into prior to the coming into force of this Part; and
 - (iii) the farmer is making a sincere and reasonable effort to meet his obligations under the mortgage;

the court shall dismiss the application with respect to the homestead.

(2) Notwithstanding section 20, where an application for an order pursuant to section 11 is dismissed pursuant to subsection (1), no further application for an order pursuant to section 11 or a notice pursuant to section 12 shall be made with respect to the homestead for a period of three years from the date the application for an order pursuant to section 11 is dismissed.

(3) Where an application for an order pursuant to section 11 is dismissed pursuant to this section, no further application may be dismissed pursuant to this section with respect to that homestead.

(4) Notwithstanding subsection (2), a mortgagee may apply to the court for leave to bring an application for an order pursuant to section 11 if:

- (a) the homestead ceases to be the residence of the farmer;
- (b) there has been a significant deterioration of the property through the farmer's neglect or wilful act; or
- (c) the farmer is no longer making a sincere and reasonable effort to meet his obligations under the mortgage.

Burden of proof

18(1) Where an application for an order is made pursuant to section 11, in addition to any other burden of proof that lies with the mortgagee, the mortgagee has the burden of proof to establish that:

- (a) the farmer has no reasonable possibility of meeting his obligations under the mortgage; or
- (b) the farmer is not making a sincere and reasonable effort to meet his obligations under the mortgage;

and unless the court is satisfied that the burden of proof has been discharged, it shall dismiss the application.

(2) For the purpose of subsection 17(1), in addition to any other burden of proof that lies with the mortgagee, the mortgagee has the burden of proof to establish that the farmer is not making a sincere and reasonable effort to meet his obligations under the mortgage.

(3) For the purpose of subsection 17(4), in addition to any other burden of proof that lies with the mortgagee, the mortgagee has the burden of proof to establish that:

- (a) the homestead has ceased to be the residence of the farmer;
- (b) there has been a significant deterioration of the property through the farmer's neglect or wilful act; or
- (c) the farmer is no longer making a sincere and reasonable effort to meet his obligations under the mortgage.

Grounds for dismissal

19 The court shall dismiss an application for an order pursuant to section 11 if it is satisfied that it is not just and equitable according to the purpose and spirit of this Act to make the order.

Further applications

20 Where an application for an order pursuant to section 11 has been dismissed, no further application pursuant to section 11 or notice pursuant to section 12 shall be made with respect to the mortgage on that farm land for a period of one year from the date on which the application is dismissed.

Writ of execution

21(1) Notwithstanding section 23 of *The Executions Act*, no farm land shall be sold by a sheriff under a writ of execution against lands unless, on application by the execution creditor, the court orders that this subsection does not apply.

(2) Sections 11 to 20 apply *mutatis mutandis* to an application pursuant to subsection (1).

(3) Where an order is made pursuant to subsection (1) declaring that that subsection does not apply, leave is not required pursuant to section 23 of *The Executions Act*.

(4) Notwithstanding section 185 of *The Land Titles Act*, where farm land has been sold under a writ of execution on lands and whether or not an order confirming the sale has been made:

- (a) no order confirming the sale shall be made; or
- (b) no transfer shall be registered;

as the case may be, pursuant to section 185 of *The Land Titles Act*, unless, on application by the execution creditor, the court orders that this subsection does not apply and confirms the sale or orders the registration.

(5) Section 12 applies *mutatis mutandis* to an application pursuant to subsection (4).

(6) Where an order is made pursuant to subsection (4) confirming a sale of farm land, subsections 185(2) and (3) of *The Land Titles Act* apply.

(7) In this section and section 109 and, for the purposes of an application pursuant to this section, in sections 11 to 20:

- (a) “**farm land**” includes farm land that is subject to a writ of execution;
- (b) “**farmer**” includes the owner of farm land;
- (c) “**mortgage**” includes a writ of execution; and
- (d) “**mortgagee**” includes the execution creditor under a writ of execution.

Limitation of actions

22(1) The period:

- (a) commencing on the date an application for an order is made pursuant to section 11; and
- (b) ending on the day that an order is made pursuant to subsection 11(1) with respect to that application ordering that “clause 9(d) or section 10 does not apply or making an order for the purposes of clause 9 (f);

is not to be included in calculating the time, pursuant to *The Limitation of Actions Act* or pursuant to any other law or rule of court, for commencing or continuing any action with respect to the mortgage or for commencing or continuing any action or making any application for the enforcement or recovery of any sum of money secured by a mortgage with respect to farm land.

(2) The period:

- (a) commencing on December 4, 1984; and
- (b) ending on the date that this Part comes into force;

is not to be included in calculating the time, pursuant to *The Limitation of Actions Act* or pursuant to any other law or rule of court, for commencing or continuing any action with respect to the mortgage or for commencing or continuing any action or making any application for the enforcement or recovery of any sum of money secured by a mortgage with respect to farm land.

Renewal of mortgages

23 Where, but for this Part, a mortgagee would have permitted a farmer to renew a mortgage on farm land, the mortgagee shall permit the farmer to renew the mortgage.

Confidentiality

24(1) Subject to subsection (2), every member of the board and every other person involved in administering this Act shall hold all information received by him pursuant to this Part in confidence.

(2) Information received pursuant to this Part with respect to a farmer, a mortgagee, an action or an application for an order pursuant to section 11 may be provided to:

- (a) a Farm Debt Review Board established pursuant to the *Farm Debt Review Act* (Canada), as amended from time to time;
- (b) any person or category of persons authorized in writing by the farmer or the mortgagee, as the case may be;
- (c) any person who is authorized or required by this Act to receive that information for the purposes of this Act.

Action on personal covenant

25(1) In this section, “**action**” means an action taken by any person, including a recognized financial institution, with respect to:

- (a) a mortgage of farm land, whether legal or equitable;
- (b) an agreement for the sale of farm land; or
- (c) a mortgage given as collateral security;

for the purpose of securing the purchase price or part of the purchase price of farm land.

(2) Subject to subsections (3) and (4), where an action is commenced:

- (a) the right of the mortgagee or vendor to recover the unpaid balance due is restricted to the land to which the mortgage or agreement relates and to foreclosure of the mortgage, any judicial sale that the court may order or cancellation of the agreement for sale, as the case may be, as well as to any collateral security including a guarantee;
- (b) no action lies on a covenant for payment:
 - (i) contained in the mortgage or agreement for sale; or
 - (ii) collateral to the mortgage or agreement.

(3) The benefit to farmers provided by subsection (2) extends to and includes a mortgage that:

- (a) secures; or
- (b) is given as collateral security for;

the purchase price or part of the purchase price of the farm land, whether or not the mortgagee was the vendor of that farm land.

(4) The benefit to farmers provided by subsections (2) and (3) extends to and includes:

- (a) the personal covenant of the purchaser contained in any assignment by the vendor of an agreement for sale;
- (b) the personal covenant of the assignee contained in any assignment by the purchaser of an agreement for sale;
- (c) the personal covenant of the mortgagor contained in an agreement extending a mortgage;
- (d) the personal covenant of a purchaser of lands subject to a mortgage, to assume and pay the mortgage.

(5) This section applies to mortgages or agreements for sale executed before, on or after the coming into force of this Act.

Effect of final order of foreclosure

26(1) Subject to subsections (2) and (3), every final order of foreclosure of a mortgage on farm land is deemed to operate in full satisfaction of the debt secured by the mortgage.

(2) Where a final order of foreclosure applies to farm land that includes a homestead, the court shall, when granting the final order of foreclosure, apportion the debt secured by the mortgage between:

- (a) the farm land that is a homestead; and
- (b) the farm land that is not a homestead;

and the debt secured by the farm land that is a homestead is preserved.

(3) Subsection (1) does not apply to that part of the debt which the court finds, pursuant to subsection (2), to be secured by the homestead, as long as the operation of the final order of foreclosure is stayed.

Right of first refusal

27(1) Notwithstanding any provision in this Act or in any other Act, where, after the coming into force of this Act:

- (a) either:
 - (i) a farmer voluntarily agrees to transfer his farm land by quit claim or otherwise to a mortgagee; or
 - (ii) a mortgagee obtains a final order of foreclosure or cancellation of agreement for sale against farm land; and
- (b) the mortgagee subsequently receives a bona fide offer for all or any portion of his interest in that farm land which he is willing to accept;

the mortgagee shall give to the farmer who voluntarily transferred the farm land by quit claim or otherwise or against whom the final order of foreclosure or cancellation of agreement for sale issued, written notice of the terms of the offer.

(2) A farmer described in subsection (1):

- (a) is deemed to have the first right for a period of 15 days after the written notice has been received by him, to notify the mortgagee of his intention to exercise his right to purchase all the farm land that is the subject of the offer and for the purchase price stated in the offer; and

- (b) where he notifies the mortgagee of his intention to exercise his right and on the expiry of the 15-day period mentioned in clause (a), shall provide within 15 days either:
- (i) the purchase price; or
 - (ii) an unconditional and unequivocal letter of commitment from a recognized financial institution to the mortgagee to finance within a reasonable period of time the farmer's purchase of the farm land that is the subject of the offer and for the price stated in the offer.
- (3) When a farmer exercises the right of first refusal pursuant to subsection (2):
- (a) the mortgagee is entitled to receive; and
 - (b) the farmer shall pay;
- the entire purchase price without any obligation to finance all or part of the purchase price.
- (4) Where the farmer does not exercise his right pursuant to subsection (2) and the offeror does not purchase the land:
- (a) the rights of the farmer under this section shall continue with respect to subsequent offers; and
 - (b) subsections (1) to (3) apply to the offers mentioned in clause (a).
- (5) Subject to subsection (6), prior to the farmer paying the purchase price, the farmer and the mortgagee are not to be considered as parties to a binding agreement for sale.
- (6) Subsection (5) does not apply where the mortgagee finances the farmer's purchase of the farm land.

Restricted effect of payment or acknowledgment under mortgage

28 No payment made or acknowledgment given to a mortgagee of farm land:

- (a) of; or
- (b) with respect to;

moneys payable under the mortgage has the effect of extending the time within which an action on the personal covenant for payment on the mortgage must be commenced by the mortgagee except as against the person by whom the payment is made or the acknowledgment is given.

Power of court re certain executions

29(1) Where:

- (a) a judgment is obtained in an action on a personal covenant for payment in a mortgage of farm land;
- (b) a writ of execution has been issued pursuant to the judgment mentioned in clause (a) and filed in the land titles office;
- (c) a farmer has made a summary application to the court for an order pursuant to this section; and

(d) on an application pursuant to clause (c), the court has held any hearing that it considers proper;

the court may order that the writ of execution mentioned in clause (b) shall not affect any of the farm land of the farmer that, pursuant to Part V, is free from seizure by virtue of writs of execution.

(2) Where an order is made pursuant to subsection (1):

(a) the local registrar shall promptly forward a copy of the order, certified by the local registrar, to the proper registrar of land titles;

(b) the registrar of land titles mentioned in clause (a) shall file the certified copy of the order; and

(c) on filing the copy of the order pursuant to clause (b), the writ of execution shall have no effect against the lands of the farmer mentioned in the order.

(3) The farmer mentioned in subsection (1) shall pay the fee for filing the certified copy of the order pursuant to subsection (2) to the local registrar and the local registrar shall forward that fee with the certified copy of the order to the proper registrar of land titles.

Reserve bid in mortgage sales

30 Where, in an action on or relating to a mortgage of farm land, the mortgagee seeks to have:

(a) the farm land under the mortgage sold; and

(b) the proceeds of sale applied in satisfaction of all or any part of the mortgage indebtedness;

the court shall not order the sale of farm land unless the sale is subject to that upset price or reserve bid that the court considers proper in the circumstances.

Limits and acknowledgment of guarantees

31(1) In this section:

(a) **“creditor”** includes a mortgagee and a secured party;

(b) **“guarantee”** means a deed or written agreement whereby an individual enters into an obligation to answer for an act, default, omission or indebtedness of a farmer in relation to farm land or other assets used in farming, but does not include guarantees entered into prior to the coming into force of this Act;

(c) **“lawyer”** means a lawyer who has not prepared any documents on behalf of the creditor relating to the transaction and who is not otherwise interested in the transaction;

(d) **“notary public”** means:

(i) with respect to an acknowledgment made in Saskatchewan, a notary public in and for Saskatchewan;

(ii) with respect to an acknowledgment made in a jurisdiction outside Saskatchewan, a notary public in and for that jurisdiction;

who has not prepared any documents on behalf of the creditor relating to the transaction and who is not otherwise interested in the transaction.

- (2) No guarantee has any effect unless the person entering into the obligation:
- (a) appears before a lawyer or notary public;
 - (b) acknowledges to the lawyer or notary public that he executed the guarantee; and
 - (c) in the presence of the lawyer or notary public signs the certificate in the prescribed form.
- (3) The lawyer or notary public, after being satisfied by examination of the person entering into the obligation that he is aware of the contents of the guarantee and understands it, shall issue a certificate in the form prescribed in the regulations.
- (4) If a notary public issues a certificate pursuant to subsection (3), he shall do so under his hand and seal.
- (5) Every certificate issued pursuant to this section by a lawyer or notary public shall be:
- (a) attached to; or
 - (b) noted on;
- the instrument containing the guarantee to which the certificate relates.
- (6) A certificate issued pursuant to this section that is:
- (a) substantially complete and regular on the face of it; and
 - (b) accepted in good faith by the creditor;
- is admissible in evidence as conclusive proof that this section has been complied with.
- (7) Every guarantee shall specify the maximum financial obligation in sum certain plus interest from the date of the demand on the guarantor to which the guarantor is liable.
- (8) A guarantee that does not comply with subsection (7) is null and void and of no effect.

Mortgagee's inspection fees

32(1) Subject to subsection (2), a mortgagee shall:

- (a) bear; and
- (b) not charge to the farmer or the mortgage account;

the fees of the mortgagee for inspection of the mortgaged premises.

(2) Subsection (1) does not apply to the fees for preliminary inspection following on an application for a loan or renewal or extension of a loan.

Mortgagee's collection costs

33(1) In this section, "**fees or costs**" includes extra-judicial fees, costs, charges, expenses, allowances or commissions for the time and service of an officer, inspector or employee of the mortgagee or of any other person appointed for the purpose:

- (a) with respect to the collection of any moneys due and payable under the mortgage;

- (b) by way of commission on or expenses of a collection described in clause (a); or
 - (c) of getting in the mortgagee's share of the crop grown on the land in question in any year.
- (2) Subject to subsection (4), a mortgagee shall not charge to the farmer or the mortgage account any fees or costs.
- (3) Any provision in any mortgage or agreement whereby the farmer contracts, agrees or covenants:
- (a) to pay any fees or costs; or
 - (b) to allow fees or costs to be added to the principal money secured by the mortgage;

is null and void and of no effect.

- (4) Nothing in this section affects the right of a mortgagee:
- (a) to recover costs as between party and party and not on a solicitor client basis, in an action under the mortgage;
 - (b) to recover the costs of distress allowed by *The Distress Act*;
 - (c) where grain is taken under *The Crop Payments Act* without levying a distress, to recover the actual expenses reasonably incurred in transporting the grain to the nearest available market;
 - (d) to charge a collection fee of 5% on the amount collected where, under a crop lease or agreement, the farmer has failed to deliver to the mortgagee the mortgagee's share of the crop within 20 days after the time for its delivery.

Fixtures

34(1) No machinery, plant, building, improvement or other chattel erected, placed or put on farm land shall:

- (a) become or be deemed to be a part of the realty; or
- (b) form a part of the security;

by reason only of a declaration, agreement or covenant in any agreement.

- (2) Any agreement, stipulation or covenant:
- (a) that a chattel shall become a part of the realty or form part of the security; or
 - (b) having the same or a like effect to an agreement, stipulation or covenant described in clause (a);

is null and void and of no effect.

Payment of overdue moneys without notice or bonus

35(1) Where all or any portion of the principal money secured by a mortgage of farm land is not paid when due under the terms of the mortgage, the mortgagee is not, by reason of the non-payment or as a condition of acceptance of all or any portion of the overdue moneys, entitled to receive:

- (a) any bonus or other additional sum; or
- (b) notice from the farmer of intention to pay all or any portion of the overdue moneys.

(2) Any agreement, stipulation or covenant that is contrary to subsection (1) is null and void and of no effect.

Only land taxes chargeable to farmer

36(1) No mortgagee shall:

- (a) charge to the farmer; or
- (b) add to the mortgage account;

any taxes, rates or assessments, other than taxes, rates or assessments that are levied or charged against the farm land and paid by the mortgagee.

(2) An agreement, stipulation or covenant that is contrary to subsection (1) is null and void and of no effect.

Life insurance premiums not to form a charge on the farm land

37(1) No mortgagee shall:

- (a) charge to the farmer; or
- (b) add to the mortgage account;

any premium respecting an insurance policy on the life of the farmer taken by or assigned to the mortgagee as collateral security for the amount owing under a mortgage of farm land.

(2) No premium described in subsection (1) shall form a lien or charge on the farm land.

(3) Any agreement, stipulation or covenant that is contrary to subsection (1) or (2) is null and void and of no effect.

Application of fire insurance money

38(1) Notwithstanding any agreement to the contrary, where damage to or destruction of buildings on farm land by fire has occurred, the farmer may, after giving the notice required by subsection (3), apply to the court for an order governing the application of any proceeds received or receivable under an insurance policy covering the damage or destruction.

(2) On the application mentioned in subsection (1), the court may make an order directing that the insurance proceeds be applied:

- (a) on account of the mortgage;
- (b) towards rebuilding, restoring or repairing the building damaged or destroyed; or
- (c) towards both of the things mentioned in clauses (a) and (b).

(3) A farmer who makes an application pursuant to subsection (1) shall make the application:

- (a) within 60 days after the amount of the loss is adjusted; and
- (b) on 10 days' notice to the mortgagee of his intention to make the application.

Hail insurance premiums

39(1) In this section and section 40, "**farmer**" includes a lessee.

(2) Subject to subsection (3), where a lessor or a mortgagee insures the crops grown on the farm land against loss by hail, the lessor or mortgagee shall not charge the cost of the insurance against the farmer except with the written consent of the farmer.

(3) The written consent required in subsection (1) is to be given in the year in which the insurance is effected.

(4) Any agreement, stipulation or covenant that is contrary to subsection (1) is null and void and of no effect.

(5) This section does not apply to insurance of crops under *The Municipal Hail Insurance Act*.

Restriction of rights under lease option agreement

40(1) Where a farmer:

- (a) has an option of purchasing the farm land; or
- (b) is entitled to become the purchaser of the farm land on the performance of any condition or conditions;

the right of the lessor or his personal representatives or assigns to recover by action or extra-judicial proceeding any rent payable by the farmer with respect to the farm land is restricted to the recovery of an amount not exceeding the reasonable rental value of the farm land, having regard to all of the circumstances between the farmer and lessor.

(2) For the purposes of subsection (1), in the case of:

- (a) an action, the court shall determine the reasonable rental value of the farm land;
- (b) an extra-judicial proceeding, any party to the proceeding may apply to the court for a determination of the reasonable rental value of the farm land and, on the application, the court shall make that determination.

(3) Where:

- (a) an option of purchasing farm land is sought to be terminated on account of breach or non-performance of any covenant, agreement, stipulation or condition contained in the lease; and
- (b) the holder of the option is in possession of the farm land and a farmer;

the farmer may apply to the court and the court may make any order that it considers just, including granting an extension of the time within which the farmer may perform his obligations.

(4) For the purpose of an application pursuant subsection (3), the farmer mentioned in subsection (3) may apply to the court within 30 days of receiving notice of termination or intention to terminate.

Application of moneys; more than one debt

41(1) Where:

- (a) a mortgage or security agreement is held as security for more than one debt; and

(b) moneys are paid by the farmer or are realized by the mortgagee or secured party under the terms of the mortgage or security agreement;

the mortgagee or secured party shall immediately apply the moneys received or realized in or towards payment of one or more of the debts secured by the mortgage or security agreement, and, unless the farmer in exercise of any right has given directions as to the application of those moneys, the mortgagee or secured party shall notify the farmer of the debt in or towards payment of which the moneys have been applied.

(2) Any agreement, stipulation or covenant that is contrary to subsection (1) is null and void and of no effect.

Certain conditions prohibited

42(1) No security agreement or collateral agreement shall contain a provision the application of which depends merely on the opinion of the secured party that a circumstance or state of things exists which affects security.

(2) A provision in subsection (1) in an agreement mentioned is null and void and of no effect.

PART III

Home Quarter Protection

Interpretation of part,

43 In this Part:

“farmer”

(a) **“farmer”** means a mortgagor;

“mortgage”

(b) **“mortgage”** does not include a mortgage:

(i) financed by a vendor:

(A) who is an individual; or

(B) that is a corporation with fewer than 10 shareholders; or

(ii) granted before the coming into force of this Act to the Farm Credit Corporation constituted by the *Farm Credit Act* (Canada), as amended from time to time.

Restriction on orders affecting homestead

44(1) The operation of:

(a) a final order of foreclosure; and

(b) an order for possession contained m mentioned in clause (a);

insofar as it affects a homestead, is stayed for as long as the homestead continues to be a homestead.

(2) Every final order of foreclosure of a mortgage shall contain a declaration by the court that the land described in the order:

(a) is not a homestead; or

(b) is a homestead.

(3) Where the final order of foreclosure of a mortgage affects a homestead and other land, the declaration shall describe:

- (a) the land that is a homestead; and
- (b) the other land affected by the order that is not a homestead.

(4) If at any time land ceases to be a homestead, the court may declare that the final order of foreclosure made with respect to that land shall operate with full force and effect.

(5) Where a final order of foreclosure presented for registration in a Land Titles Office contains a declaration that a portion of the land described in the final order is a homestead, the order may be registered only with respect to the other land described in the final order and declared not to be a homestead.

(6) No certificate of title is to be issued on the registration of the order mentioned in subsection (5) except for the land declared in the final order not to be a homestead.

(7) Notwithstanding *The Land Titles Act*, if a certificate of title is issued on the registration of the order mentioned in subsection (5) for land declared in the final order to be a homestead, the certificate is null and void.

(8) On presentation for registration in a Land Titles Office of:

- (a) either:
 - (i) a duplicate original of a final order of foreclosure; or
 - (ii) a copy of a final order of foreclosure certified by the local registrar; and
- (b) a declaration of the court that land declared in the final order to be a homestead has ceased to be a homestead;

the registrar may register the final order and declaration and issue a certificate of title according to the tenor of the final order.

(9) Notwithstanding any Act or law:

- (a) no order for possession; or
- (b) no authority to enter into possession;

of a mortgaged homestead shall be made or given to the mortgagee, except in a final order of foreclosure issued with respect to an action for foreclosure of the mortgage.

(10) Notwithstanding any Act or law:

- (a) no order for sale of a mortgaged homestead shall be made in an action for:
 - (i) foreclosure of the mortgage; or
 - (ii) any relief other than foreclosure that may be granted to the mortgagee; and
- (b) no power of sale contained in a mortgage of a homestead shall be exercised and no directions for sale shall be given.

(11) If:

- (a) a farmer has died; and

(b) the protection afforded by this section applies to the mortgage;
the surviving spouse and children of the farmer are entitled to claim and to receive the protection offered by this section with respect to the mortgage.

(12) Subject to subsection (13), the board may make orders excluding any mortgage or class of mortgages from the operation of this section, where, in the opinion of the board, it is in the best interests of the farmer, including orders excluding from the operation of this section:

- (a) a mortgage on a homestead given for the purpose of securing the purchase price or part of the purchase price of farm land; or
- (b) a mortgage on a homestead given for the purpose of financing construction of housing or facilities on farm land.

(13) The board may hold a hearing prior to making an order pursuant to subsection (12) and, at the hearing, the board shall advise the farmer of the protection afforded by this section.

(14) Any order made by the Provincial Mediation Board pursuant to subsection 7(9) of *The Farm Security Act*, as it existed on the day before the coming into force of this Part, is continued.

(15) Where, under *The Farm Security Act*, a mortgage executed prior to the coming into force of this Act was not subject to section 7 of that Act, then that mortgage is not subject to this Part.

PART IV

Possession of Equipment

Interpretation of Part,

45 In this Part:

“farmer”

(a) “**farmer**” means a producer who or agricultural corporation that owes payment or other performance of a secured obligation, whether or not he or it owns or has rights in the article, and includes a person appointed pursuant to subsection 49(1);

“vendor”

(b) “**vendor**” includes a personal representative, successor or assignee of a vendor.

Vendor’s rights restricted

46(1) In this section, “**article**” means any personal property that:

- (a) is purchased by a farmer for use in farming;
- (b) and has a selling price greater than \$500.

(2) Notwithstanding any other Act or any agreement or contract between a vendor and farmer but subject to subsection (3), where:

- (a) an article is sold; and

- (b) the vendor, after delivery, has a lien for all or part of the purchase price of the article mentioned in clause (a);

the vendor's right to recover the unpaid purchase money is restricted to his lien on the article sold and to his right to repossession and sale.

- (3) Subsection (2) does not apply to:
 - (a) the sale of land with chattels on an entire consideration;
 - (b) an agreement for the sale of livestock;
 - (c) the sale of an article that is, after the sale, affixed to realty and to which section 36 of *The Personal Property Security Act* applies; or
 - (d) the sale of goods in bulk within the meaning of *The Bulk Sales Act*.
- (4) Subsection (2) applies to all sales effected by way of a security agreement creating a purchase-money security interest covering the whole or part of the purchase price of the article sold.
- (5) Where an article with respect to which subsection (2) applies is:
 - (a) repossessed and not redeemed; or
 - (b) surrendered to the vendor;

any money paid after the repossession or surrender with respect to that part of the purchase price remaining unpaid at the time of repossession or surrender may be recovered by the farmer by action in the court.

- (6) This section does not apply where the article sold is substantially destroyed by wilful act of the farmer.
- (7) Where the court is satisfied that:
 - (a) the article has been damaged by the farmer's neglect or wilful act; or
 - (b) for any reason it is inequitable that subsection (2) should apply;

the court may order that subsection (2) does not apply to any article and may make any further order that it considers just.

Right to possession restricted

47 Notwithstanding any other provision in this Act, any other Act or any contract or agreement between a secured party and a farmer, where:

- (a) a farmer has failed to make a payment on an agreement to purchase an implement; and
- (b) the implement is, in whole or in part, the security under the agreement;

the secured party shall not take possession of the implement except in accordance with this Part.

Notice of intention to take possession

48 A secured party intending to take possession of an implement shall serve the notice prescribed in the regulations on the farmer.

Appointment of representative of deceased farmer

49(1) Where a farmer has died, the court may, on *ex parte* application of the secured party, appoint a representative for the deceased farmer for the purposes of:

- (a) the proceedings pursuant to this Part; and
- (b) any further proceedings consequent on the proceeding mentioned in clause (a).

(2) Service of the notice pursuant to section 48 shall be made on the person appointed pursuant to subsection (1).

(3) An order made pursuant to subsection (1) and any additional orders consequent to that order bind the estate of the deceased in the same manner as if a duly appointed personal representative of the deceased had been a party to the proceeding.

Application for hearing

50(1) Within 30 days after the date on which a notice is served on a farmer pursuant to section 48, the farmer may apply for a hearing by the court.

(2) A farmer who wishes to apply for hearing by the court shall:

- (a) make his application in the form prescribed in the regulations; and
- (b) deliver the form to the local registrar at the judicial centre that is:
 - (i) nearest to the place where the farmer resides; or
 - (ii) if the farmer does not reside in Saskatchewan, nearest to the place where the secured party resides or carries on business.

(3) No application for a hearing and no hearing shall be:

- (a) questioned in any court; or
- (b) held to be invalid;

for the reason only that the application was made or the hearing was held at a judicial centre other than a judicial centre mentioned in subsection (2).

(4) No fee is payable with respect to an application for a hearing pursuant to this section.

Duty of local registrar on receipt of application

51 On receipt of an application delivered pursuant to section 50, the local registrar shall:

- (a) immediately serve notice on the secured party advising him that an application for a hearing has been made by the farmer;
- (b) as soon as practical after serving notice pursuant to clause (a), fix a time and place for the hearing by a judge; and
- (c) serve notice of the hearing and the time and place fixed for the hearing on:
 - (i) the farmer; and
 - (ii) the secured party;

at least 10 days prior to the day fixed for the hearing.

Conditions respecting possession

52(1) If a notice is not served pursuant to clause 51(a) on the secured party within 40 days after the date on which the notice was served pursuant to section 48 by the secured party on the farmer, the secured party may take possession of the implement.

(2) If a notice pursuant to clause 51(a) is served on the secured party, the secured party shall not take any further proceeding without leave of the court.

Orders or the court

53(1) On the hearing of an application made pursuant to section 50, the court may make any orders that it considers just.

(2) Without limiting the generality of subsection (1), the court may:

(a) order delivery of the implement to the secured party, subject to any conditions that the court considers just; or

(b) order delivery of the implement to the secured party and postpone the operation of the order:

(i) on condition that the farmer pays to the secured party any amount that the court considers just; or

(ii) subject to fulfillment of any conditions by the farmer, other than that described in subclause (i), that the court considers just.

(3) The court may vary the terms of any order made pursuant to this section:

(a) at any time; and

(b) in any manner that the court considers just.

(4) Where a secured party and a farmer do not agree as to the amount remaining unpaid under the agreement, the court may determine the amount.

(5) Subject to any conditions that it considers just, the court may, at any time, revoke the postponement of the operation of an order for delivery of an implement.

(6) Notwithstanding any other provision of this Part, where the farmer or the secured party requests that the matter be adjourned to permit an opportunity for mediation before a mediator, the court may adjourn the matter.

(7) Where a farmer makes an application pursuant to section 20 of the *Farm Debt Review Act* (Canada), as amended from time to time, with respect to the implement, the court:

(a) shall adjourn any proceedings taken under this Part while any stay of proceedings is in effect under that Act; and

(b) on the adjournment, may make any orders that it considers just.

Payment cancels notice

54 Where a secured party accepts a payment on account of an amount owing under an agreement after a notice is served pursuant to section 48:

(a) the acceptance cancels the notice; and

(b) no proceedings may be taken pursuant to this Part by the secured party on the notice.

Rights of farmer if secured party contravenes certain provisions

55 If a secured party takes possession of an implement or disposes of an implement in contravention of this Part or of an order of the court:

- (a) the agreement is deemed to be cancelled with respect to the implement;
- (b) the farmer is released from all liability with respect to the implement under the agreement; and
- (c) the farmer is entitled to recover from the secured party in an action for money had and received an amount equal to one and a half times the fair market value of the implement at the time of the seizure.

Order to preserve implement

56 On the application of the secured party made at any time after service of a notice pursuant to section 48, the court may make any orders that it considers just to protect the implement from damage or depreciation, including orders:

- (a) restricting or prohibiting the use of the implement; or
- (b) giving directions as to its custody.

Notice of possession of implement

57 Where a secured party takes possession of an implement, he shall serve on the farmer:

- (a) if the possession has been taken pursuant to an order of a court, a notice of possession after order as prescribed in the regulations and a copy of the order of the court;
- (b) in any other case, a notice of possession as prescribed in the regulations.

Application for hearing after notice of possession

58(1) A farmer, who has not made an application for a hearing by the court pursuant to:

- (a) section 50; or
- (b) section 23 of *The Limitation of Civil Rights Act*;

may within 30 days after the date on which a notice of possession is served on the farmer, apply for a hearing by the court.

(2) Subsections 50(2) and (3) and 53(4), (6) and (7) and sections 51, 54 and 59 apply *mutatis mutandis* with respect to an application for a hearing made pursuant to subsection (1).

(3) On the hearing of an application made pursuant to subsection (1) the court may:

- (a) order delivery of the implement to the farmer subject to any conditions that the court considers just;
- (b) order delivery of the implement to the farmer and postpone the operation of the order:
 - (i) on condition that the farmer pays to the secured party any amount that the court considers just;
 - (ii) subject to the fulfillment of any other conditions by the farmer that the court considers just;

and the court may vary the terms of any order made pursuant to clause (a) or (b) in any manner that it considers just.

(4) Where a notice mentioned in clause 51(a) is served on a secured party within the period of time mentioned in subsection (1), no further proceeding shall be taken by the secured party without leave of the court.

Action by secured party after possession of implement

59 A secured party who takes possession of an implement other than pursuant to an order of the court shall:

- (a) keep the implement for at least 40 days after the date on which the notice of possession given by him pursuant to clause 57(b) was served on the farmer; and
- (b) if the farmer applies for a hearing, keep the implement in his possession or return it to the farmer unless otherwise ordered by the court.

Court order postponement

60(1) During the period that:

- (a) the operation of an order for delivery of an implement is postponed pursuant to section 53 or 58; or
- (b) the matter is adjourned for mediation pursuant to this Act or the *Farm Debt Review Act* (Canada), as amended from time to time;

no further sum shall be or become payable by the farmer on account of the unpaid balance under the agreement except in accordance with the terms of an order made pursuant to section 53 or 58.

(2) Where, during the period mentioned in subsection (1):

- (a) the farmer fails to comply with any condition of the postponement or adjournment or any term of the agreement as varied by the court; or
- (b) the farmer disposes of the implement;

the secured party shall not take any proceedings against the farmer otherwise than by making an application to the court with respect to the implement or the unpaid balance under the agreement.

(3) A secured party shall serve notice of an application pursuant to subsection (2) on the farmer.

(4) Section 49 applies *mutatis mutandis* to an application pursuant to subsection (2).

(5) Notwithstanding subsection (2), the secured party may apply to the court for an order dispensing with an application pursuant to subsection (2) and, on the application, the court may grant the order.

(6) When the unpaid balance under the agreement is paid in accordance with the terms of an order made pursuant to section 53 or 58, the secured party's title to the implement vests in the farmer.

Costs

61(1) Subject to subsections (2) and (3), no costs shall be awarded to either party with respect to any proceedings under this Part.

(2) Where, in the opinion of the court, an application made to it is an abuse of the applicant's right to make the application, the court may order payment of costs by the applicant.

(3) Where costs of an application are ordered to be paid by the farmer, the court may order that the costs be added to the amount remaining payable under the agreement.

Restriction on payment to assignee

62 Where an implement is sold under a conditional sale contract and the secured party:

- (a) assigns his interests in the contract; and
- (b) agrees with the assignee that he is liable to the assignee for any amount due under the contract in default of payment of that amount by the farmer;

the secured party is not liable to the assignee for any amount in default during any period that payment by the farmer is postponed by an order of the court pursuant to section 53 or 58.

Continuation of notice

63 Where:

- (a) any notice or application has been given or made;
- (b) any hearing held; or
- (c) any order made;

pursuant to sections 19 to 36 of *The Limitation of Civil Rights Act*, as that Act existed on the day before the coming into force of this Part, that notice, application, hearing or order is valid for the purposes of this Part as if given, made or held pursuant to this Part and is deemed to be the notice, application, hearing or order required pursuant to this Part.

Power to stay execution

64(1) On application of a farmer, the court may make an order:

- (a) staying execution under a judgment; or
- (b) if a writ of execution has issued, staying seizure or sale under the judgment;

on any terms as to costs or otherwise and subject to any undertaking that the court considers just.

(2) No application shall be made pursuant to subsection (1) unless 15 days' written notice of intention to make the application has been given to the judgment creditor.

PART V

Exemptions

Interpretation of Part "farmer"

65 In this Part, "**farmer**" means a producer who owes payment or other performance of the obligation secured whether or not he owns or has rights in the goods.

Exemptions under executions

66 The following property of a farmer and his family is declared free from seizure by virtue of writs of execution:

- (a) the necessary and ordinary clothing of the farmer and his family;
- (b) furniture and household furnishings and household appliances, to a maximum value of \$10,000;

- (c) produce of a farm sufficient, when converted into cash, to provide food and fuel for heating purposes for the farmer and his family until the next harvest;
- (d) all livestock, farm machinery and equipment, including one automobile or one farm truck, that are reasonably necessary for the proper and efficient conduct of the farmer's agricultural operations for the next 12 months;
- (e) one motor vehicle, where it is necessary for the proper and efficient conduct of the farmer's business, trade, calling or profession, but only if that motor vehicle is not in addition to one mentioned in clause (d);
- (f) the books related to any profession practised by the farmer;
- (g) the tools and necessary implements and office furniture and equipment, to a maximum value of \$4,500 used by the farmer in the practice of his business, trade, calling or profession;
- (h) the house and buildings occupied by the farmer as his bona fide residence and the lot or lots on which they are situated according to a registered plan to a maximum value of \$32,000;
- (i) seed grain chosen by the farmer, that is sufficient to sow all his farm land under cultivation to a maximum amount equal to the product of:
 - (i) two bushels per acre; and
 - (ii) the number of acres of farm land under cultivation by the farmer;
- (j) the crop of the farmer to the extent that is sufficient, when converted into cash, along with any other means that he may have, to:
 - (i) pay all unpaid legitimate costs of harvesting the crop;
 - (ii) provide a necessary living allowance for the support of the farmer and his family until the crop of the following year is about to be harvested; and
 - (iii) provide necessary costs of his farming operations until that time;
- (k) the homestead; and
- (l) any trailer that is:
 - (i) occupied by the farmer as living quarters; and
 - (ii) not in addition to the house and buildings protected from seizure under clause (h) or (k).

Permitted disposition of certain exempt property

67(1) The farmer shall not dispose of or use any:

- (a) seed grain;
- (b) crop; and
- (c) cash received from the sale of any crop;

that is exempt from seizure pursuant to section 66 except for the purpose or purposes for which an exemption of seed grain or crop is provided by section 66 and that is or are allowed by the sheriff.

- (2) Where:
- (a) an exemption of crops is claimed by a farmer and allowed by the sheriff as being necessary for the purpose of providing:
 - (i) a living allowance; or
 - (ii) costs of the farmer's farming operations;
 - (b) the exemption allowed pursuant to clause (a) is in addition to the exemptions allowed in section 66;

any article purchased for the purpose for which the exemption is allowed, if purchased before the crop of the following year is harvested, is also free from seizure by virtue of writs of execution.

Exemptions under security agreement

68(1) Notwithstanding any Act or any agreement where:

- (a) a farmer executes a security agreement on any of the chattels mentioned in section 66; and
- (b) a seizure under the security agreement mentioned in clause (a) is made;

the farmer may hold free from seizure any of those chattels that are covered by the security agreement and that would be exempt pursuant to section 66 from seizure by writ of execution.

(2) Subsection (1) does not apply with respect to a security agreement executed as security for:

- (a) a loan guaranteed under the *Home Improvement Loans Guarantee Act* (Canada), as amended from time to time; or
- (b) a guaranteed farm improvement loan within the meaning of the *Farm Improvement Loans Act* (Canada), as amended from time to time.

Application to court

69 An application may be made by the farmer, execution creditor or secured party to the court at the judicial centre nearest to the place where the farmer resides to determine the right pursuant to this Part of a farmer to have any chattels that are:

- (a) covered by a security agreement; or
- (b) subject to a writ of execution;

exempted from seizure and sale under a security agreement or writ of execution.

Exceptions

70(1) Except in the case of food, clothing and bedding of the farmer and his family, this Part does not exempt from seizure an article the price of which forms the subject matter of the judgment on which the execution is issued.

(2) Except in the case of food, clothing and bedding of the farmer and his family, this Part does not exempt from seizure and sale goods which are covered by a security agreement creating a purchase-money security interest as defined in *The Personal Property Security Act*.

Deceased debtor

71 Where a farmer dies, his property that would be exempt pursuant to this Part from seizure under execution and that is exempt pursuant to this Part from seizure under a security agreement mentioned in section 68 is exempt as against his personal representative if it is in the use and enjoyment of and is necessary for the maintenance and support of:

- (a) the surviving spouse;
- (b) the children; or
- (c) the surviving spouse and children;

of the deceased farmer.

Right of selection

72 The farmer, the surviving spouse or children of a deceased farmer or, in the case of infants, their guardian, may select from a greater quantity of the same kind of personal property the property that is exempt pursuant to this Part from seizure.

Absconding debtors

73 Sections 66 to 68 do not apply to cases in which a farmer:

- (a) has absconded; or
- (b) is about to abscond;

from Saskatchewan leaving no spouse or children behind.

Separation agreements

74 Sections 66 and 67 do not apply to executions issued on judgments or orders founded on separation agreements.

Interest in annuity exempt

75(1) Any:

- (a) property and interest of:
 - (i) a farmer in an annuity; or
 - (ii) a farmer interested in or entitled to a contract for an annuity;under the *Government Annuities Act* (Canada), as amended from time to time; and
- (b) moneys payable or paid under a contract for an annuity described in clause (a);

are exempt from seizure, levy or attachment by or under the process of any court, and are not to be affected by any trust, charge or lien.

(2) This Part is not intended to conflict or be inconsistent with the *Government Annuities Act* (Canada), as amended from time to time.

PART VI
Farm Ownership

Interpretation of Part

76 In this Part:

“aggregate land holding”

(a) **“aggregate land holding”** of a person includes all land holdings of that person and all land holdings of that person's spouse and children;

“Canadian resident”

(b) **“Canadian resident”** means an individual who resides in Canada for at least 183 days in any year but does not include a resident person;

“child”

(c) **“child”** means an unmarried person under 18 years of age;

“farm land”

(d) **“farm land”** means real property in Saskatchewan that is situated outside a city, town, village, hamlet or resort village and that is used or is capable of being used for the purposes of farming, but does not include:

- (i) minerals contained in, on or under that real property; and
- (ii) land used primarily for the purpose of extracting, processing, storing or transporting minerals;

“land holding”

(e) **“land holding”** includes:

- (i) farm land;
- (ii) any interest in farm land held under an agreement to purchase or lease;
- (iii) any interest in farm land held under any agreement that may directly or indirectly:
 - (A) result in vesting of title to farm land;
 - (B) confer the right to possession of farm land; or
 - (C) confer any right or control ordinarily accruing to the owner of farm land;
- (iv) those kinds and types of shares, that may be designated by the Lieutenant Governor in Council, legally or beneficially owned in a corporation having a land holding;
- (v) for the purposes of sections 87, 95 and 96 and clause 100(b), any interest in a limited partnership where that limited partnership has a land holding;
- (vi) any interest in farm land other than that described in subclauses (i) to (v);

but does not include farm land or any interest in farm land held by way of security for a debt or other obligation;

“limited partnership”

(f) **“limited partnership”** means a partnership that is formed pursuant to Part II of *The Partnership Act*.

Ownership board continued

77(1) The Saskatchewan Farm Ownership Board is continued consisting of those persons appointed as members by the Lieutenant Governor in Council.

(2) Any person who is a member of the ownership board on the day before the coming into force of this Part continues as a member of the ownership board until:

- (a) that person resigns or is removed from the ownership board by the Lieutenant Governor in Council; or
- (b) a successor is appointed pursuant to this Act.

(3) The Lieutenant Governor in Council may designate:

- (a) one of the members of the ownership board as chairman; and
- (b) one other member of the ownership board as vice-chairman.

(4) The ownership board may:

- (a) employ, engage the services of or retain any officers and other employees;
- (b) fix the terms and conditions of employment of employees; and
- (c) engage the services of or retain any advisors;

that the ownership board considers appropriate to carry out its duties pursuant to this Part.

(5) *The Public Service Superannuation Act* applies to any officers and other employees employed pursuant to subsection (4).

(6) The ownership board is responsible to the minister in the performance of the duties and exercise of the powers imposed or conferred on it by or pursuant to this Part.

(7) Subject to this Part, the ownership board may make rules governing its procedure.

Land holding by non-residents restricted

78 Subject to sections 79 to 84 and 89, no non-resident person shall:

- (a) have an aggregate land holding with an assessed value for municipal taxation purposes in excess of \$15,000, excluding any assessment for buildings and similar improvements; or
- (b) acquire a land holding which results in the non-resident person having an aggregate land holding with an assessed value for municipal taxation purposes in excess of \$15,000, excluding any assessment for buildings and similar improvements.

Restrictions not applicable to land acquired prior to March 31, 1974, etc.

79(1) Clause 78(a) does not apply:

- (a) where the land holding was acquired by the non-resident person prior to March 31, 1974;
- (b) where the land holding was acquired by the non-resident person on or after March 31, 1974, but the right to the land holding arose prior to that date; or

(c) where the land holding is held by a non-resident person who during any five years was a resident person and who acquired the land holding while he was a resident person.

(2) Where a non-resident person:

- (a) has a land holding in excess of the aggregate permitted pursuant to section 78 which he held while a resident person; and
- (b) does not meet the requirements of clause (1)(c);

the non-resident person has five years from the date of becoming a non-resident person to reduce his aggregate land holding to an aggregate land holding permitted pursuant to section 78.

Land holding by non-residents after September 15, 1977

80(1) Subject to subsections (2) and (3) and sections 82, 83, 84 and 89, no non-resident person shall, on or after September 15, 1977:

- (a) have an aggregate land holding in excess of 160 acres or one quarter section, whichever is the greater; or
- (b) acquire a land holding which results in the non-resident person having an aggregate land holding in excess of 160 acres or one quarter section, whichever is the greater.

(2) Clause (1)(a) does not apply where:

- (a) the land holding was acquired by the non-resident person prior to September 15, 1977; or
- (b) the land holding is held by a non-resident person who, during any five years, was a resident person and who acquired the land holding while he was a resident person.

(3) Where a non-resident person acquired a land holding in excess of 160 acres or one quarter section prior to September 15, 1977:

- (a) *The Saskatchewan Farm Ownership Act*, as it existed on September 14, 1977, applies to that person; and
- (b) that person shall not acquire any further land holdings.

(4) Where a non-resident person:

- (a) has a land holding in excess of the aggregate permitted pursuant to subsection (1) which he held while a resident person; and
- (b) does not meet the requirements of clause (2)(b);

the non-resident person has five years from the date of becoming a non-resident person to reduce his aggregate land holding to an aggregate land holding that is permitted pursuant to subsection (1).

Land holding by non-resident after May 6, 1980

81(1) Subject to subsections (2) and (3) and to sections 82, 83, 84 and 89, no non-resident person shall on or after May 6, 1980:

- (a) have an aggregate land holding in excess of 10 acres; or
- (b) acquire a land holding which results in the non-resident person having an aggregate land holding in excess of 10 acres.

- (2) Clause (1)(a) does not apply where:
- (a) the land holding was acquired by the non-resident person prior to May 6, 1980; or
 - (b) the land holding is held by a non-resident person who, during any five years, was a resident person and who acquired the land holding while he was a resident person.
- (3) Where a non-resident person acquired a land holding in excess of 10 acres prior to May 6, 1980:
- (a) *The Saskatchewan Farm Ownership Act*, as it existed on May 5, 1980, applies to that person; and
 - (b) that person shall not acquire any further land holdings.
- (4) Where a non-resident person:
- (a) has a land holding in excess of that permitted pursuant to subsection (1) which he held while a resident person; and
 - (b) does not meet the requirements of clause (2)(b);

he has five years from the date of becoming a non-resident person to reduce his aggregate land holding to an aggregate land holding that he is permitted pursuant to subsection (1).

Canadian residents

82(1) Notwithstanding sections 78 to 81, but subject to subsection (2), no Canadian resident shall on or after July 1, 1988:

- (a) have an aggregate land holding in excess of 320 acres or two quarter sections, whichever is greater; or
 - (b) acquire a land holding which results in the Canadian resident having an aggregate land holding in excess of 320 acres or two quarter sections, whichever is greater.
- (2) Where a Canadian resident was entitled:
- (a) prior to March 31, 1974 to hold land in excess of the aggregate permitted pursuant to section 79, he is permitted to continue to hold that land;
 - (b) prior to September 15, 1977 to hold land in excess of the aggregate permitted pursuant to section 80, he is permitted to continue to hold that land.
- (3) Clause (1)(a) does not apply where the land holding is held by a Canadian resident who during any five years was a resident person and who acquired the land holding while he was a resident person.
- (4) A Canadian resident who does not meet the requirements of subsection (3) has five years from the date of becoming a non-Canadian resident to reduce his aggregate land holding to an aggregate land holding that is permitted pursuant to sections 78 to 81.

Special exemptions for acquisition by inheritance

83 Where a non-resident person acquires a land holding by:

- (a) devise; or

- (b) operation of *The Intestate Succession Act*;

which results in the non-resident person having an aggregate land holding in excess of that permitted pursuant to section 78 or subsection 80(1), 81(1) or 82(1), the non-resident person has five years from the date of his acquisition of the land holding to reduce his aggregate land holding to an aggregate land holding permitted pursuant to section 78 or subsection 80(1), 81(1) or 82(1), as the case may be.

Special exemption for relatives

84(1) Notwithstanding section 83 and subject to subsection (3), section 78, subsections 80(1), 81(1) and 82(1) do not apply to a land holding transferred to:

- (a) a spouse;
- (b) a parent, grandparent, son, daughter, grandson, granddaughter, brother, sister, nephew or niece; or
- (c) a spouse of any of the persons described in clause (b);

if the transferor, during any five years prior to the date of transfer, was a resident person and who acquired the land holding while he was a resident person.

(2) For the purpose of subsection (1), in the case of a devise or in the case of a succession under *The Intestate Succession Act*, the deceased is deemed to be the transferor.

(3) For the purposes of clause 78(b) and subsections 80 (1), 81(1) and 82(1), where a non-resident person or a Canadian resident acquires a land holding pursuant to this section, the land holding is to be included in the person's or resident's aggregate land holding and to reduce the land holding that the person or resident is permitted to acquire pursuant to clause 78(b) or subsection 80(1), 81(1) or 82(1).

Non-agricultural corporation land holding reduced

85(1) Subject to subsection (2) and sections 86 and 89, no non-agricultural corporation shall have or acquire an aggregate land holding in excess of 10 acres.

(2) No non-agricultural corporation in which the majority of voting shares are legally and beneficially owned by resident persons or agricultural corporations shall:

- (a) have an aggregate land holding in excess of 320 acres; or
- (b) acquire a land holding which results in the non-agricultural corporation having an aggregate land holding in excess of 320 acres.

(3) Notwithstanding subsection (1), the ownership board may:

- (a) give written consent to a non-agricultural corporation to have or acquire a land holding in excess of that permitted by subsection (1) or (2); and
- (b) where it gives its consent pursuant to clause (a), may impose any terms and conditions on that consent that it considers appropriate.

(4) Notwithstanding subsection (1), a corporation holding a valid licence under *The Trust and Loan Corporations Act*, acting on behalf of a resident person as trustee or otherwise, may have or acquire a land holding.

(5) A corporation holding a land holding in trust under the provisions of subsection (4) shall state, in a disclosure statement delivered to the board pursuant to section 91, the names and addresses of any persons on whose behalf it holds the land holding.

Non-agricultural corporation to dispose of excess land holding

86(1) Subject to subsections 85(2) and 92(1) and (2), a non-agricultural corporation that:

- (a) on March 31, 1974, had an aggregate land holding in excess of 10 acres; or
- (b) on May 5, 1980, had an aggregate land holding in excess of 10 acres but not more than 160 acres;

shall dispose of the excess land holding by January 1, 1994.

(2) Where an agricultural corporation becomes a non-agricultural corporation, the corporation has:

- (a) one year from the date of becoming a non-agricultural corporation; or
- (b) any time other than that mentioned in clause (a) that the ownership board may allow;

to reduce its aggregate land holding to an aggregate land holding permitted pursuant to section 85.

(3) Where a non-agricultural corporation acquires a land holding by devise that results in the non-agricultural corporation having an aggregate land holding in excess of that permitted pursuant to section 85, the corporation has five years from the day on which it acquires the land holding to reduce its aggregate land holding to an aggregate land holding that is permitted pursuant to section 85.

Limited partnership land holding prohibited

87(1) Subject to subsection (2) and section 88, no non-resident person or non-agricultural corporation shall have or acquire a land holding described in subclause 76(d)(v).

(2) A non-agricultural corporation may apply to the ownership board for an exemption from subsection (1).

(3) On an application pursuant to subsection (2), the ownership board may:

- (a) grant the exemption; or
- (b) refuse the exemption.

(4) Where the ownership board grants the exemption pursuant to subsection (3), it may impose any terms and conditions that it considers appropriate on the exemption.

Exemption, disposal

88(1) Subject to subsection (4), subsection 87(1) does not apply to a non-resident person or a non-agricultural corporation that holds a land holding described in subclause 76(d)(v) on May 24, 1983 that it held prior to May 24, 1983.

(2) Where a non-resident person has a land holding in contravention of subsection 87(1) which he held as a resident person on May 24, 1983, the non-resident person has five years from the date that he becomes a non-resident person to comply with subsection 87(1).

(3) Where a non-agricultural corporation has a land holding in contravention of subsection 87(1) that the non-agricultural corporation held as an agricultural corporation on May 24, 1983, the non-agricultural corporation has:

- (a) one year from the day it becomes a non-agricultural corporation; or

(b) any time other than that mentioned in clause (a) that the ownership board may allow;

to comply with subsection 87(1).

(4) A non-agricultural corporation that holds a land holding described in subclause 76(d)(v) on May 24, 1983 shall dispose of that land holding by January 1, 1994.

Special exemption for acquisition of land by creditors

89(1) Subject to subsection (2), a non-resident person or a non-agricultural corporation may acquire a land holding by the:

- (a) realization;
- (b) quit claim;
- (c) settlement; or
- (d) other disposition;

of his or its security which results in the non-resident person or the non-agricultural corporation having a land holding in excess of that permitted pursuant to section 78, subsection 80(1), 81 (1) or 82(1) or section 85, as the case may be.

(2) After a period of two years from the date of acquisition of the land holding, a land holding mentioned in subsection (1) is to be included in the non-resident person's or non-agricultural corporation's aggregate land holding for the purposes of section 78, subsection 80(1), 81(1) or 82(1) or section 85, as the case may be.

(3) The ownership board may:

- (a) extend the two-year period mentioned in subsection (2); and
- (b) where it extends the period pursuant to clause (a), impose any terms and conditions that it considers appropriate on the extension.

Acquisition by certain persons prohibited

90 No person shall acquire a land holding on behalf of a non-resident person or a non-agricultural corporation where that acquisition of the land holding by the non-resident person or non-agricultural corporation would be in contravention of this Part.

Disclosure of land holdings by non-agricultural corporations

91(1) The ownership board may direct a non-agricultural corporation that has an aggregate land holding in excess of 10 acres to deliver to the board a disclosure statement in the form prescribed in the regulations within 60 days following that request.

(2) A non-agricultural corporation that fails to deliver to the ownership board a disclosure statement as required by this section is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.

Exemptions

92(1) Notwithstanding any other provision of this Part, a non-resident person or a non-agricultural corporation may apply to the ownership board for an exemption from this Part.

(2) On an application pursuant to this section and if the ownership board is satisfied that it is appropriate to do so, the ownership board may grant the exemption applied for.

(3) Where the ownership board grants an exemption pursuant to subsection (2), it may impose any terms and conditions that it considers appropriate on the exemption.

Compliance required

93 Where the ownership board has imposed terms or conditions pursuant to this Part on an exemption, consent or other order:

(a) no person who is the subject of the exemption, consent or order shall fail to comply with those terms and conditions; and

(b) if the person mentioned in clause (a) fails to comply with the terms and conditions, the exemption, consent or order is deemed to be cancelled.

Offences and penalties

94(1) An individual who contravenes any provision of this Part or the regulations for which no penalty is prescribed is guilty of an offence and liable on summary conviction to:

(a) a fine of not more than \$10,000;

(b) imprisonment for a term of not more than six months; or

(c) both the fine mentioned in clause (a) and imprisonment mentioned in clause (b).

(2) A corporation that contravenes any provision of this Part or the regulations for which no penalty is prescribed is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000.

(3) Where a corporation has committed an offence against this Part, every officer, director or agent of the corporation who directed, authorized, assented to or acquiesced or participated in the commission of the offence is guilty of an offence and liable on summary conviction to:

(a) a fine of not more than \$10,000;

(b) imprisonment for a term of not more than six months; or

(c) both the fine mentioned in clause (a) and imprisonment mentioned in clause (b);

whether or not the corporation has been prosecuted or convicted.

(4) No prosecution for an offence pursuant to this Part is to be commenced after two years from the day of the commission of the alleged offence.

Enforcement of limitation of land holding

95(1) A non-resident person or a non-agricultural corporation having a land holding in contravention of this Part shall immediately reduce his or its aggregate land holding to an aggregate land holding permitted pursuant to this Part.

- (2) The ownership board:
- (a) may issue an order to a non-resident person or a non-agricultural corporation having a land holding in contravention of this Part requiring the non-resident person or the non-agricultural corporation to reduce his or its aggregate land holding to an aggregate land holding permitted pursuant to this Part; and
 - (b) where it issues an order pursuant to clause (a), shall serve the order on the person to whom the order is issued.
- (3) Where a non-resident person or non-agricultural corporation fails to comply with an order of the ownership board pursuant to subsection (2) within six months from the date on which the order is served, the ownership board may apply to a judge of the court for an order directing compliance with this Part.
- (4) On an application by the ownership board pursuant to subsection (3), the court may grant the order enforcing compliance with this Part and may make one or more of the following orders:
- (a) an order declaring null and void any instrument or document by which a land holding is or may be acquired in contravention of this Part;
 - (b) an order for the sale of the land holding held in contravention of this Part and the distribution of the proceeds from the sale to those persons that may be entitled to the proceeds;
 - (c) an order directing the registrar of land titles to cancel a certificate of title of a non-resident person or non-agricultural corporation and to issue a new certificate of title and duplicate certificate of title in the name of the persons that may be entitled to them;
 - (d) an order to return any consideration given under an instrument or a document made in contravention of this Part;
 - (e) an order for possession of the land holding to be given to the persons that may be entitled to it;
 - (f) an order respecting costs;
 - (g) any other order that may be necessary to give effect to the provisions of this Part or that to it seems just.

Investigation

- 96(1)** Where the ownership board has reason to believe that a person has a land holding in contravention of this Part, the ownership board, or a person authorized by the ownership board, may conduct an investigation into the matter.
- (2) For the purposes of an investigation pursuant to this section, the ownership board or the person authorized by the ownership board, as the case may be, has all of the powers of commissioners pursuant to *The Public Inquiries Act*.
- (3) Where it appears to the ownership board that a person may have a land holding in contravention of this Part, the ownership board shall submit a written report of the result of its investigation to the minister.

Appeal

97(1) A person dissatisfied with an order of the ownership board pursuant to section 95 may appeal to a judge of the court who, on hearing the appeal, may:

- (a) dismiss the appeal;
 - (b) allow the appeal;
 - (c) allow the appeal subject to terms and conditions;
 - (d) vary the order appealed against;
 - (e) refer the matter back to the ownership board for further consideration;
 - (f) award costs of the appeal;
 - (g) make any other order that to him seems just.
- (2) An appeal pursuant to this section shall be by notice of motion.
- (3) A person making an appeal pursuant to this section shall serve a copy of the appeal on the ownership board not less than 10 days before the day on which the motion is returnable.

Stay of operation of certain decisions of the board

98(1) Subject to subsection (2), the taking of an appeal pursuant to section 97 does not stay the operation of the decision of the board.

- (2) The judge may, on an appeal pursuant to section 97:
- (a) stay the operation of the decision of the board; and
 - (b) if he stays the operation of the decision, prescribe terms and conditions to which the stay is to be subject.

Municipalities allowed to hold land

99 This Part does not apply to corporations created or continued pursuant to *The Rural Municipality Act* or *The Urban Municipality Act, 1984*.

Regulations

100 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Part;
- (b) exempting persons or categories of persons or land holdings or classes of land holdings from this Part or any of the provisions of this Part prescribing any terms and conditions to which an exemption may be subject and requiring compliance with those terms and conditions;
- (c) designating the kinds and types of shares in a corporation that shall constitute a land holding for the purposes of subclause 76(e)(iv);
- (d) prescribing, with respect to a land holding mentioned in subclause 76(e) (iv):
 - (i) the manner in which the assessed value for municipal taxation purposes of the land holding shall be calculated for the purposes of section 78;
 - (ii) the manner in which the size of the land holding shall be calculated for the purposes of sections 80, 81, 82 and 85;

- (e) fixing remuneration and expense allowances for members of the ownership board;
- (f) prescribing the forms to be used and the information to be required in disclosure statements pursuant to section 91;
- (g) prescribing and requiring the payment of a fee to be paid by a person who makes an application to the ownership board.

PART VII

General Provisions

Immunity from liability

101 No action lies or shall be instituted against the minister, the board, a committee of the board, an officer, employee or adviser of the board, the ownership board, an officer, employee or adviser of the ownership board or a mediator who is acting pursuant to the authority of this Act or the regulations for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in exercise of or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

Offence

102(1) Every person who contravenes any provision of this Act or the regulations for which no other penalty is specifically provided is guilty of an offence and liable on summary conviction:

- (a) to a fine of not more than \$10,000; and
- (b) in the case of a continuing offence, to a further fine of \$125 for each day during which the offence continues.

(2) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission by the corporation of an offence described in subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000, whether or not the corporation has been prosecuted or convicted.

(3) No prosecution is to be instituted pursuant to this section without the consent of the Minister of Justice.

(4) No prosecution for an offence pursuant to this Act is to be commenced after two years from the day of the commission of the alleged offence.

Service of documents

103(1) Where any notice or document is required by this Act to be served, the notice or document may be served:

- (a) personally by delivery of a copy of the document to the person to be served; or
- (b) by mailing a copy of the document to the person to be served by registered mail.

- (2) Notwithstanding subsection (1), a notice or document may be served on a person by leaving a copy with his lawyer if the lawyer accepts service by signing his name on a true copy of the document indicating that he is the solicitor for that person.
- (3) Where service is made by registered mail, service is deemed to have been effected:
- (a) on the delivery date shown on the signed post office acknowledgment of receipt card; or
 - (b) if the card is not dated, on the date the signed post office acknowledgment of receipt card is returned to the sender.
- (4) Where service by registered mail is authorized, a post office receipt card, purporting to be signed by or on behalf of the addressee, attached to the affidavit of service shall be *prima facie* proof of service.
- (5) Where the address of the person to be served is unknown or the person who is required to serve the document is for any reason unable to effect prompt service, the court may, on application which may be made *ex parte*, grant an order for substituted service or for the substitution for service by advertisement or other means that, from the information available, is most likely to bring notice of the document to the person to be served.

Crown bound

- 104(1)** Subject to subsection (2), the Crown is bound by Parts I to V and VII of this Act.
- (2) The Agricultural Credit Corporation of Saskatchewan, continued pursuant to *The Agricultural Credit Corporation of Saskatchewan Act*, is bound by this Act.
- (3) The Farm Credit Corporation constituted pursuant to the *Farm Credit Act* (Canada), as amended from time to time, is bound by this Act.

No waiver

- 105(1)** Every agreement or bargain, verbal or written, express or implied, entered into before this Act comes into force, that:
- (a) limits, modifies or abrogates or, in effect, limits, modifies or abrogates any benefit or remedy pursuant to *The Limitation of Civil Rights Act* or *The Exemptions Act*; and
 - (b) was expressly permitted pursuant to subsection 40(2) of *The Limitation of Civil Rights Act* or subsection 3(2) of *The Exemptions Act*;

continues in full force and effect for the purposes of this Act.

- (2) Every agreement or bargain, verbal or written, express or implied, entered into after May 24, 1988, that:
- (a) either:
 - (i) this Act; or
 - (ii) any provision of this Act;
- shall not apply or that any benefit or remedy provided by this Act shall not be available; or

(b) in any way limits, modifies or abrogates or in effect limits, modifies or abrogates any benefit or remedy described in clause (a);

is null and void and of no effect.

(3) Any money paid under or by reason of any agreement or bargain mentioned in subsection (2) is recoverable in the court.

(4) Notwithstanding subsection (2), an agricultural corporation may in writing agree that all or any provision of Part IV, other than section 46, shall not apply to the agricultural corporation, but only where the agricultural corporation has received independent legal advice prior to entering into the agreement.

Appeal to Court of Appeal

106 An appeal lies to the Court of Appeal on a question of law from an order of the court.

Fiscal year

107 The fiscal year of the board and the ownership board is the period:

- (a) commencing on April 1 in one calendar year; and
- (b) ending on March 31 in the next calendar year.

Tabling of reports

108(1) The Farm Land Security Board shall, in accordance with *The Tabling of Documents Act*, make and submit to the minister an annual report respecting the work performed by the board.

(2) The Saskatchewan Farm Ownership Board shall, in accordance with *The Tabling of Documents Act*, make and submit to the minister an annual report respecting the work performed by the ownership board.

(3) The minister shall, in accordance with *The Tabling of Documents Act*, lay before the Legislative Assembly each report received by him pursuant to subsections (1) and (2).

Regulations

109 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word used in this Act but not defined in this Act;
- (b) exempting:
 - (i) any farmer or mortgagee or any class of farmers or mortgagees; or
 - (ii) any contract or agreement or any class of contracts or agreements;

from the application of Part II or any provision of Part II on any terms and conditions that the Lieutenant Governor in Council considers appropriate;

- (c) prescribing the information that is to be contained in a notice pursuant to subsection 12 (1);
- (d) prescribing and requiring the payment of fees to be paid by a person who makes an application to the board;

- (e) prescribing the contents of forms used or required for the purposes of this Act;
- (f) prescribing any other matter or thing that is required to be prescribed in the regulations.

Act prevails

110 If any provision of this Act or the regulations conflicts with any other Act, the regulations made pursuant to any other Act or the provisions of any contract, agreement, order or document, the provision of this Act or the regulations prevails.

PART VIII**Repeal and Coming into force**

S.S. 1984-85-86, c.F-8.01; R.S.S. 1978, c.F-9 and c.S-17 repealed

- 111(1) *The Farm Land Security Act* is repealed.
- (2) *The Saskatchewan Farm Ownership Act* is repealed.
- (3) *The Farm Security Act* is repealed.

Coming in to force

112 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.