



Consumer Protection Act Part III

Consumer Product Warranties

This publication or any of its contents should not be considered a statement of law. The relevant sections of ***The Consumer Protection Act (Part III)*** should be consulted for any legal interpretation or application.

In Saskatchewan, *The Consumer Protection Act (Part III)* outlines the responsibility of vendors and/or manufacturers for additional written warranties, promises or statements made about their products and losses that may result from product defects.

Answers to questions about *The Consumer Protection Act (Part III)*

What is a “consumer product”?

A consumer product is any new or used item purchased in Saskatchewan ordinarily used for personal, family or household purposes. Some products brought by farmers and fishermen for use in their operation are also considered as consumer products.

Who does the Act protect?

All persons who buy consumer products from Saskatchewan retail sellers, as well as persons who get the product second hand from the original purchaser, receive protection provided by the *Act*. Non-profit organizations who purchase consumer products, and farmers and fishermen who buy

products in Saskatchewan for business use.

The *Act* does not apply to products sold between private individuals, or to products purchased by a business for business purposes.

How does the *Act* look after my interest?

Whenever you buy a product from a Saskatchewan retailer you will receive several basic warranties known as statutory warranties that provide you with a minimum standard of protection. These warranties are considered by the *Act* to be given to you by the retail seller and the manufacturer even though they may not be stated by the retailer verbally or in writing.

What are the statutory warranties I am entitled to receive?

You should be able to enjoy ownership of the goods without fear of undisclosed liens or other claims against them. The products or goods must:

- match its description;
- be of acceptable quality;
- be fit for any specific purpose as stated by you, as well as for their regular purpose, unless it is obvious at the time of purchase that the goods could not meet their usual or specified purpose;
- when purchased product based on a sample the product must match the quality of the sample and must be free from defects;
- be durable for a reasonable period of time and have spare parts and repair facilities available for a reasonable period of time (not necessarily within the province).

What does “acceptable quality” mean?

“Acceptable quality” means the product has the quality and characteristics that consumers can reasonably expect taking into account such things as price and description.

What does “reasonable” mean?

The *Act* relies on the word “reasonable.” To a consumer, “reasonable” is generally considered to be an expectation acceptable to a majority of average, sane, ordinary and normal people when given the circumstances of a certain situation. It is not considered the perception of an individual.

This is not to be interpreted as a legal definition. What is “reasonable” in a situation may ultimately be decided by the courts.

What does “reasonable durability” mean?

“Reasonable durability” means the product must last for a reasonable length of time taking into account the price and description as well as how the product has been used and maintained.

What am I entitled to if the product fails to meet the statutory warranties?

If something is substantially wrong with the product and it cannot be repaired, you may reject the product and recover your purchase price (less a deduction for use) from the retailer or manufacturer at fault. You will be required to pay out any liens or encumbrances against the product.

If the product is faulty but can be repaired, then the *Act* states you are entitled to have the goods repaired at no cost to you. If, after a reasonable period of time, the retailer has failed to

repair the product, you can have the product repaired elsewhere and recover your cost from the seller.

Is it up to me to return a defective product to the party responsible for the defect?

Yes, unless because of its size, weight or nature, the product can't be easily returned without a great deal of effort or significant cost to you.

What are “expressed warranties?”

Under the *Act*, manufacturers and retailers are responsible for any promises and statements they make either verbally, in writing, or in advertising, about the product or its performance.

These statements or promises will be considered binding whether or not you rely on them to make a decision, if such statements would usually induce a consumer to buy the product.

What are “additional written warranties?”

The seller or manufacturer may give you an additional written warranty, for example, the card that comes with a toaster or in the glove compartment of a new car. Additional written warranties are considered to be given to you in addition to protection under the statutory warranties.

Additional written warranties must be clear and fair. Such a warranty must contain:

- the name and address of the warrantor (seller, manufacturer, etc.);
- the parts of the product covered;
- the duration of the warranty;
- what the warranty expects of you;
- any costs you must pay to make a claim under the warranty;
- the procedure you should follow to make a claim under the warranty; and
- the location of repair facility.

An additional written warranty cannot be deceptively worded, limit your rights, unreasonably require you to return the goods or make the seller or manufacturer the sole judge of whether your claim is valid.

In all cases, it must be made clear whether the seller does or does not

adopt the additional written warranty that is included with the product.

What other compensation am I entitled to?

If you are the original buyer or subsequent owner, you are entitled to recover compensation for any losses you have suffered that could normally be expected to result from failure to meet the Statutory Warranties.

What is the correct procedure to follow when I do have a problem?

The first thing you should do is discuss your concern with the seller and/or manufacturer. In most cases they will be more than willing to work out a satisfactory adjustment.

What if problems can't be ironed out at this level?

When you've tried to obtain satisfaction but for some reason haven't been able to solve the problem, you may seek a solution to your problem through the courts.

A printed copy of *The Consumer Protection Act* is available free of charge on the Internet or for a nominal fee by contacting:

Office of the Queen's Printer
Saskatchewan Justice
Telephone: (306) 787-6894
Toll free: (within Saskatchewan) -
1-800-226-7302
E-Mail: qprinter@justice.gov.sk.ca
Internet: <http://www.qp.gov.sk.ca>

For information on commencing court action against a supplier, see the attached material prepared by Small Claims Court. More detailed information is available from the local Provincial Court.

For more information contact:

**Ministry of Justice
and Attorney General
Consumer Protection Branch
Suite 500
1919 Saskatchewan Dr.
Regina, SK S4P 4H2
Phone (306) 787-5550
Toll free: 1-888-374-4636
(Within Saskatchewan)
Fax: (306) 787-9779**

Email: consumerprotection@justice.gov.sk.ca

<http://www.justice.gov.sk.ca/cpb>

A current version of these and other consumer tips is available at the Consumer Protection Branch website at <http://www.justice.gov.sk.ca/cpb>. Most public libraries have Internet access available if you do not have Internet at home.

This tips sheet is available for print or copy free of charge. Please check the website or contact our office to make sure you have the most up-to-date copy.

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**THE CONSUMER PROTECTION ACT
CHAPTER C-30.1**

Statutory warranties

- 48** Where a consumer product is sold by a retail seller, the following warranties are deemed to be given by the retail seller to the consumer:
- (a) that the retail seller has a right to sell the product;
 - (b) that:
 - (i) at the time of delivery to the consumer, the product is and will remain free from any security interest, lien, charge or encumbrance not expressly disclosed or actually known to the consumer before the sale is made; and
 - (ii) the consumer will enjoy quiet possession of the product except to the extent that it may be disturbed by any person entitled to any security interest, lien, charge or encumbrance disclosed or actually known to the consumer before the sale is made:
 - (c) where the sale of the product is a sale by description, that the product corresponds with the description;
 - (d) that the product supplied under the contract is of acceptable quality, except that this warranty is deemed not to be given:
 - (i) respecting defects specifically drawn to the consumer's attention before the contract is made; or
 - (ii) where the consumer examines the product before the contract is made, respecting defects that examination ought to have revealed;
 - (e) where the consumer expressly or by implication makes known to the retail seller any particular purpose for which the product is being bought, that the product supplied under the contract is reasonably fit for that purpose, whether or not that is a purpose for which the product is commonly supplied, except that this warranty is deemed not to be given where the circumstances show that:
 - (i) the consumer does not rely on the retail seller's skill or judgment; or
 - (ii) it is unreasonable for the consumer to rely on the retail seller's skill or judgment;
 - (f) where the sale of the product is a sale by sample:
 - (i) that the bulk of the product corresponds in quality with the sample;
 - (ii) that the consumer is to have a reasonable opportunity to compare the bulk of the product with the sample;
 - (iii) that the product is free from any defect that renders it not of acceptable quality and that would not be apparent on reasonable examination of the sample;
 - (g) that the product and all its components are to be durable for a reasonable period, having regard to all the relevant circumstances of the sale, including:
 - (i) the description and nature of the product;
 - (ii) the purchase price;
 - (iii) the express warranties of the retail seller or manufacturer; and (iv) the necessary maintenance the product normally requires and the manner in which it has been used;
 - (h) where the product normally requires repairs, that spare parts and repair facilities will be reasonably available for a reasonable period after the date of sale of the product.

1996, c.C.30.1, 8.48.

Remedies for breach of statutory or express warranties

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

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

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

(3) For the purposes of subsection (2), regardless of whether the right to reject is being exercised by the consumer or a person mentioned in subsection 41(1), a reasonable period:

- (a) runs from the time of delivery of the product to the consumer; and
- (b) consists of a period sufficient to permit any testing, trial or examination of the consumer product that may be normally required by consumers of that product and as may be appropriate considering the nature of the product, for the purpose of determining the conformity of the product to the obligations imposed pursuant to this Part on the party in breach.

1996, c.C-30.1, s.57.

Where party in breach must repair product

59(1) Where the provisions of subsection 57(1) apply so that the party in breach is required to repair the consumer product, the consumer shall return the product to the place of business of, or to any repair facility or service outlet operated by:

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

(2) No consumer is obliged to return the consumer product pursuant to sub-section (1) to the party in breach if, by reason of the nature of the breach or the size, weight or method of attachment or installation of the product, it cannot be removed or transported without significant cost to the consumer.

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

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

Where consumer rejects product

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

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

1996, c.C-30.1, 8.60.

Remedy for breach or additional written warranty to repair or replace

61 Where a consumer makes a valid claim under an additional written warranty for repair or replacement of a consumer product and the warrantor does not, within a reasonable period after the claim is made, perform the repair or replacement in accordance with the terms of the additional written warranty, the consumer shall be entitled to:

- (a) have the defect remedied elsewhere; and
- (b) recover reasonable repair costs from the warrantor as well as damages for losses that the consumer suffered and that were reasonably foreseeable as liable to result from the failure of the warrantor to honour the warranty.

1996, c.C-30.1, 8.61.

Additional repair costs

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

1996, c.C-30.1, 8.62.