



# Notice of Failure to Perform

Two copies required, one each for the dealer and purchaser. (Please print or type all information)  
(Section 22, Farm Implements Act, is reproduced on the back for convenience only. Refer to the Act for accurate reference.)

To (Name of Dealer)	
Address	Telephone Number (       )
From (Name of Purchaser)	
Address	Telephone Number (       )

This is to notify you that the \_\_\_\_\_  
(Make, model and type of farm implement)

Serial No. \_\_\_\_\_ Model No. \_\_\_\_\_

purchased from your dealership and delivered on \_\_\_\_\_ has failed to  
(Delivery date)  
perform as specified.

Date actual use of implement started	Date of implement failure	Present hour meter reading
Description of failure		

Purchaser's signature	Date
Dealer Rep.'s signature	Name ( <i>print</i> )
Position	Date

# Farm Implements Act

## Failure to Perform

### (Section 22)

*(This reproduction is prepared for convenience only. For accurate reference consult the Act. See also Section 21.)*

- (1) If, within the twelve months following its delivery to the purchaser, a new farm implement that is properly operated and maintained and used under reasonable operating conditions fails to perform to the manufacturer's specifications during its first ten days or first 100 hours of actual use, whichever occurs first, the purchaser may give notice of the farm implements failure to perform.
- (2) The notice referred to in subsection (1) shall be given in writing as soon as possible after the failure occurs, and in any event within ten days of the failure,
  - (a) to the selling dealer; or
  - (b) if the selling dealer is no longer in business, to the Director, and the dealer or the Director shall notify the distributor forthwith of the notice and its contents.
- (3) The dealer or distributor shall endeavor to make the defective farm implement perform to the manufacturer's specifications within four working days after the dealer or distributor receives notice of the failure, or as soon as possible thereafter when reasonable operating conditions exist for the farm implement.
- (4) If the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications, the dealer or distributor shall forthwith provide the purchaser with the satisfactory substitute for the purchaser's use until the defective farm implement is made to perform to the manufacturer's specifications or is replaced or until the sale agreement is terminated under clause (5) (b).
- (5) If, within fourteen working days after providing the substitute farm implement to the purchaser, the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications,
  - (a) the distributor shall replace the defective farm implement with a farm implement that is satisfactory to the purchaser; or
  - (b) the dealer shall terminate the sale agreement in so far as it relates to the defective farm implement.
- (6) Subject to subsections (7), (8) and (9), when a sale agreement is terminated under clause (5) (b),
  - (a) the distributor shall refund to the purchaser through the dealer the amount remitted to the distributor for the defective farm implement; and
  - (b) the dealer shall refund to the purchaser the balance of the amount paid for the defective farm implement and shall return any trade-in made in connection with the sale.
- (7) The dealer or distributor may deduct from the amount owing to the purchaser,
  - (a) the reasonable costs of repairing or reconditioning the trade-in that were incurred before the termination of the sale agreement; and
  - (b) a reasonable amount of compensation for the actual use of the farm implement by the purchaser.
- (8) If the dealer does not return the trade-in, the dealer shall pay to the purchaser an amount equal to the fair market value of the trade-in.
- (9) If the defective farm implement was purchased under a sale agreement that relates to more than one farm implement and includes a trade-in arrangement, the dealer or distributor may, unless the purchaser agrees otherwise,
  - (a) keep the trade-in and pay to the purchaser an amount of money that bears the same proportion to the fair market value of the trade-in as the purchase price of the defective farm implements bears to the total purchase price of all the farm implements purchased under the agreement; or
  - (b) return the trade-in and refund to the purchaser the part of the total purchase price that was paid in respect of the defective farm implement.
- (10) If the purchase of the defective farm implement is financed in whole or in part through a financing agreement with any third party and the sale agreement relating to it is terminated under clause (5) (b), the distributor shall be liable,
  - (a) to satisfy the payment obligations under the financing agreement that relate to the defective farm implement, including any penalty for accelerated payment; and
  - (b) to discharge any registrations against the farm implement or against the purchaser in connection with that farm implement under the *Bank Act* (Canada), the *Personal Property Security Act* and the *Corporation Securities Registration Act*.