



## Farm Implements Act

### ONTARIO REGULATION 123/06

#### DEALERSHIP AGREEMENTS

**Consolidation Period:** From April 25, 2006 to the e-Laws currency date.

No amendments.

***This is the English version of a bilingual regulation.***

#### **Mandatory terms**

1. (1) The terms set out in sections 2 and 3 are prescribed as the mandatory terms that must be included in any dealership agreement under subsection 3 (4) of the Act. O. Reg. 123/06, s. 1 (1).

(2) The mandatory terms set out in sections 2 and 3 are deemed to form part of any dealership agreement even if the agreement fails to include them as required. O. Reg. 123/06, s. 1 (2).

(3) A provision in a dealership agreement that limits, varies or attempts to waive a term set out in sections 2 and 3 is void. O. Reg. 123/06, s. 1 (3).

#### **Right to terminate**

2. (1) The distributor has the right to terminate a dealership agreement if,

- (a) the dealer makes an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada), a bankruptcy order has been made against the dealer or the dealer, being bankrupt, has not been discharged from bankruptcy;
- (b) an application is made under the *Business Corporations Act* to wind up, dissolve or liquidate the dealership or the dealership is being wound up by order of the court under that Act;
- (c) a guarantee of the dealer's accounts payable to the distributor is revoked or discontinued;
- (d) the dealer, other than for seasonal fluctuations, ceases or abandons all or part of its operations for 14 consecutive days or longer;
- (e) the dealer has been convicted of an offence under the Act;
- (f) the dealer fails to comply with any term of the dealership agreement; or
- (g) the dealer has been convicted of an offence under the *Criminal Code* (Canada) involving fraud, theft or false pretences or convicted of an offence under the *Consumer Protection Act, 2002*. O. Reg. 123/06, s. 2 (1).

(2) The dealer has the right to terminate a dealership agreement if,

- (a) the distributor makes an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada), a bankruptcy order has been made against the distributor or the distributor, being bankrupt, has not been discharged from bankruptcy;
- (b) an application is made under the *Business Corporations Act* to wind up, dissolve or liquidate the distributor or the distributor is being wound up by order of the court under that Act;
- (c) the distributor, other than for seasonal fluctuations, ceases or abandons all or part of its operations for 14 consecutive days or longer;
- (d) the distributor has been convicted of an offence under the Act;

- (e) the distributor has been convicted of an offence under the *Criminal Code* (Canada) involving fraud, theft or false pretences or convicted of an offence under the *Consumer Protection Act, 2002*; or
  - (f) the distributor fails to comply with any term of the dealership agreement. O. Reg. 123/06, s. 2 (2).
- (3) The dealership agreement may be terminated with the consent in writing of both the distributor and dealer. O. Reg. 123/06, s. 2 (3).

**Other terms**

3(1) The dealer has the right, and the agreement shall not be interpreted as interfering with the right of the dealer to,

- (a) continue to offer for sale farm implements obtained from the distributor even if,
    - (i) the dealer has failed to achieve the distributor's sales targets so long as the failure is not unreasonable,
    - (ii) the dealer has sought to exercise a remedy under the Act, or
    - (iii) the dealer has refused to accept delivery of or purchase a farm implement or service from the distributor because the implement or service is not necessary for the operation of the dealership or is not a tool or equipment necessary for the service or repair of farm implements sold under the dealership agreement;
  - (b) renew or transfer the dealership agreement;
  - (c) transfer any interest in the dealership at any time, including upon the death of the dealer, to a related person, a trust established for that related person or a corporation controlled by the related person or to a partner in the dealership; and
  - (d) assume control of another dealership or amalgamate the dealership with another one. O. Reg. 123/06, s. 3 (1).
- (2) The dealer shall notify the distributor in writing of any change in the dealer's ownership, management or share structure. O. Reg. 123/06, s. 3 (2).

(3) A dealer who wishes to renew or transfer a dealership agreement under clause (1) (b) shall notify the distributor in writing of that fact. O. Reg. 123/06, s. 3 (3).

(4) A renewal or transfer of a dealership agreement under clause (1) (b) is subject to the approval of the distributor, which approval shall not be unreasonably withheld. O. Reg. 123/06, s. 3 (4).

(5) The approval of the distributor is not required in respect of a transfer under clause (1) (c) or a transaction under clause (1) (d). O. Reg. 123/06, s. 3 (5).

(6) If the distributor intends to refuse the transfer or renewal of the dealership agreement, the following rules apply:

1. The distributor shall notify the dealer in writing of the reasons for the refusal, within 45 days of receiving the request for approval.
2. If the distributor fails to notify the dealer within the 45-day period, the transfer or renewal is deemed to be approved.
3. The dealer shall be allowed 15 days from receipt of the notice to address the concerns underlying the refusal.
4. After the 15-day period has passed, the distributor may, subject to subsection (3), refuse the transfer or renewal. O. Reg. 123/06, s. 3 (6).

(7) The distributor has the right to set sales targets that are fair and reasonable. O. Reg. 123/06, s. 3 (7).

(8) The distributor shall provide the dealer with details of marketing incentives offered to other dealers selling the same farm implements. O. Reg. 123/06, s. 3 (8).