

Notice of Failure to Perform First 10 days or 50 hours of use

If a new farm implement fails to perform in a satisfactory manner within the first 10 days or 50 hours of use, the purchaser should file a Notice of Failure to Perform document with the FAO, the dealer, and distributor to ensure they do not lose possible benefits given under the FIDA.

Even though the dealer and distributor may be trying to resolve the new farm implement issue, the timely filing of the Notice of Failure to Perform is important for two reasons:

- Upon receiving a Notice of Failure to Perform, the dealer and distributor have 7 business days to get the new farm implement into satisfactory working condition. If the implement is not working satisfactorily in 7 business days, within 48 hours the dealer and distributor must provide the farmer with a satisfactory substitute farm implement until the purchaser's new farm implement is working satisfactorily.
- If the new farm implement cannot be returned to a satisfactory working condition within a reasonable amount of time after providing the substitute farm implement, the dealer or distributor shall replace the new farm implement with a farm implement that is acceptable to the purchaser or terminate the sales agreement and refund the money to the purchaser.

While it is desirable that the purchaser, dealer and distributor try to resolve the new farm implement issue, if a Notice of Failure to Perform is not filed within 10 days or 50 hours of use, the above options (replacement of the new farm implement or a refund of the purchase price) may not be available to the purchaser.

The Farm Implement and Dealership Act

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The *Farm Implement and Dealership Act* (FIDA) protects purchasers of farm implements by helping:

- settle warranty complaints
- provide protection regarding replacement parts
- provide minimum requirements for sales contracts
- mediate disputes
- remedy a breach of sale/lease agreements
- provide remedies if a new farm implement fails to perform

Benefits the FIDA provides farmers

- Provides a minimum 1-year warranty on new purchases and leases.
- Requires that repair parts for a new farm implement purchase or lease be available for 10 years.
- Creates a process for resolving performance issues on new farm implements.
- Provides an opportunity to apply for compensation if there are direct losses resulting from the breach of a sale or lease agreement.
- Licenses farm implement dealers and distributors operating in Alberta.

Farm implement exemptions

- Farm implements with a retail selling price of \$7000 or less;
- Motor vehicles under the *Traffic Safety Act*;
- Lawn and garden equipment;
- Tractors and their attachments with net engine power capability of 22.35 KWh (30 horsepower) or less;
- Truck boxes and hoists;
- Off-highway vehicles defined in the *Traffic Safety Act*;
- Snowploughs and snow blowers;
- Trailers and equipment carriers.

Warranties

Regardless of anything stated in an agreement or sales contract, every new farm implement sold and protected by the FIDA is warranted to be:

- Made of good material;
- Properly constructed as to design and workmanship;
- In good working order;
- With proper use and maintenance and under reasonable operating conditions, capable of performing the work for which it is intended;
- Designed and constructed to ensure reasonable durability with proper use and maintenance and under reasonable operating conditions.

Application for compensation

If a purchaser believes they have experienced a loss due to a breach of the FIDA, for example a violation of a sale/lease agreement or warranty, the purchaser may apply (within one year of the loss) under the FIDA for potential compensation.

Contact the FAO for further information on filing an application.

Repair parts availability

Except in cases where the delay is beyond the control of the dealer or distributor, during the normal season of use, repair parts for new farm implements are to be available within 72 hours after the request is made. If the request is made outside the normal season of use, the parts shall be available within 10 working days.

When a farm implement is being repaired under a warranty provided by the FIDA, the dealer and distributor are obligated to use parts that are new and of the standard, quality and size prescribed by the manufacturer for that implement. A purchaser may waive this requirement by authorizing a substitution in writing.