

GENERAL PROVISIONS

189.1 Definitions.

For the purpose of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, unless the context otherwise requires:

1. "*Article*" includes food, commercial feed, agricultural seed, commercial fertilizer, drug, insecticide, fungicide, paint, linseed oil, turpentine, and illuminating oil, in the sense in which they are defined in the various provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208.
2. "*Department*" means the department of agriculture and land stewardship, and if the department is required or authorized to do an act, the act may be performed by a regular assistant or a duly authorized agent of the department.
3. "*Official laboratory*" means a biological, chemical, or physical laboratory which performs testing or analysis pursuant to scientific procedures, to the extent the laboratory is recognized by the department as a reliable indicator of scientific results.
4. "*Package*" or "*container*", unless otherwise defined, includes wrapper, box, carton, case, basket, hamper, can, bottle, jar, tube, cask, vessel, tub, firkin, keg, jug, barrel, tank, tank car, and other receptacles of a like nature; and the expression "*offered or exposed for sale or sold in package or wrapped form*" means the offering or exposing for sale, or selling of an article which is contained in a package or container as defined in this section.
5. "*Pasteurization*" or "*pasteurized*" means the procedure of processing milk or a milk product, in order to ensure its safety from contaminants, if the procedure of pasteurization is consistent with standards adopted by the department pursuant to section 192.102.
6. "*Person*" includes a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in that capacity shall also be liable for violations of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208.
7. "*Rules*" includes regulations and orders by the department.
8. "*Secretary*" means the secretary of agriculture.
9. "*United States Pharmacopoeia*" or "*National Formulary*" means the latest revision of these publications official at the time of a transaction which is in question.

[S13, § 2510-o, 3009-a; SS15, § 4999-a31c; C24, 27, 31, 35, 39, § **3029**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.1]

86 Acts, ch 1245, § 636; 92 Acts, ch 1163, §44; 94 Acts, ch 1023, §17; 2003 Acts, ch 69, §24, 25

189.2 Duties.

The department shall:

1. Execute and enforce this subtitle,* except chapter 205.
2. Make and publish all necessary rules, not inconsistent with law, for enforcing the provisions of this

subtitle, excluding chapters 203, 203C, 203D, 207, and 208.

3. Provide educational measures and exhibits, and conduct educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, in accordance with the rules adopted pursuant to this subtitle.

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this subtitle, excluding chapters 203, 203C, 203D, 207, and 208. These bulletins shall be printed in such numbers as may be approved by the director of the department of administrative services and shall be distributed to the newspapers of the state and to all interested persons.

1. [C97, § 2515; S13, § 2510-g, -t, -v4, 2528-f2, 3009-a, 4999-a31b, 5077-a22; SS15, § 2515; C24, 27, 31, 35, 39, § **3030**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.2]

2. [S13, § 4999-a18, 5077-a22; C24, 27, 31, 35, 39, § **3030**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.2]

3. [C97, § 2515; SS15, § 2515; C24, 27, 31, 35, 39, § **3030**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.2]

4. [S13, § 2510-g, -t, -v4, 2528-f2, 3009-s, 4999-a26, -a37, 5077-a11; C24, 27, 31, 35, 39, § **3030**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.2]

83 Acts, ch 101, § 33; 85 Acts, ch 67, §20; 89 Acts, ch 197, §25; 94 Acts, ch 1023, §18; 98 Acts, ch 1119, § 25; 98 Acts, ch 1164, § 40; 2003 Acts, ch 69, §26; 2003 Acts, ch 145, §204

Footnotes

*This provision does not include chapters 203, 203C, 203D, 207, and 208, which were moved into this subtitle by the Code editor. Chapters 203, 203C, 203D, 207, and 208 contain the applicable provisions pertaining to those chapters.

189.3 Procuring samples.

The department shall, for the purpose of examination or analysis, procure from time to time, or whenever the department has occasion to believe any of the provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, are being violated, samples of the articles dealt with in these provisions which have been shipped into this state, offered or exposed for sale, or sold in the state.

[C97, § 2521, 2524; S13, § 2528-f2, 4999-a18, 5077-a11, -a22; C24, 27, 31, 35, 39, § **3031**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.3]

94 Acts, ch 1023, §19; 2003 Acts, ch 69, §27

189.4 Access to factories and buildings.

The department shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in this subtitle, excluding chapters 203, 203C, 203D, 207, and 208.

[C97, § 2505; S13, § 2528-a, 5077-a22; SS15, § 2505, 2510-4a, 3009-n; C24, 27, 31, 35, 39, § **3032**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.4]

94 Acts, ch 1023, §20; 2003 Acts, ch 69, §28

189.5 Dealer to furnish samples.

Upon request and tender of the selling price by the department any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department.

[S13, § 4999-a24, 5077-a11; C24, 27, 31, 35, 39, § **3033**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.5]

94 Acts, ch 1023, §21; 2003 Acts, ch 69, §29

189.6 Taking of samples.

The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in possession in violation of the provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, in order to secure a sample for analysis or examination, and the sample and damage to container shall be paid for at the current market price out of the contingent fund of the department.

[C97, § 2521, 2526; S13, § 2528-b, -f2, 5077-a11, -a22; C24, 27, 31, 35, 39, § **3034**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.6]

94 Acts, ch 1023, §22; 2003 Acts, ch 69, §30

189.7 Preservation of sample.

After the sample is taken it shall be carefully sealed with the seal of the department and labeled with the name or brand of the article, the name of the party from whose stock it was taken, and the date and place of taking such sample. Upon request a duplicate sample, sealed and labeled in the same manner, shall be delivered to the person from whose stock the sample was taken. The label and duplicate shall be signed by the person taking the same. The method of taking samples of particular articles may be prescribed by the rules of the department.

[C97, § 2521; S13, § 4999-a24, 5077-a11, -a22; C24, 27, 31, 35, 39, § **3035**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.7]

189.8 Witnesses.

In the enforcement of the provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, the department shall have power to issue subpoenas for witnesses, enforce their attendance, and examine them under oath. The witnesses shall be allowed the same fees as witnesses in district court. The fees shall be paid out of the contingent fund of the department.

[C97, § 2515; SS15, § 2515; C24, 27, 31, 35, 39, § **3036**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.8]

94 Acts, ch 1023, §23; 2003 Acts, ch 69, §31

Footnotes

Contempts, chapter 665

Witness fees, § 622.69 et seq.

189.9 Labeling.

All articles in package or wrapped form which are required by this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters of not less than eight point heavy gothic caps on the principal label with the following items:

1. The true name, brand, or trademark of the article.
2. The quantity of the contents in terms of weight, measure, or numerical count. Under this requirement reasonable variations shall be permitted, and small packages shall be excepted in accordance with the rules of the department.
3. The name and place of business of the manufacturer, packer, importer, dispenser, distributor, or dealer.

The above items shall be printed in such a way that there shall be a distinct contrast between the color of the letters and the background upon which printed.

[C73, § 4042; C97, § 2517, 49894991, 5070; S13, § 2510-d, -q, -r, -v1, -v2, 2515-bd, 2528-f, 4999-a35, 5070-a, 5077-a6; SS15, § 4999-a31c; C24, 27, 31, 35, 39, § **3037**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.9]

94 Acts, ch 1023, §24; 2003 Acts, ch 69, §32

189.10 Packages excepted.

In case the size of the package or container will not permit the use of the type specified in section 189.9, the same may be reduced in size proportionately in accordance with the rules of the department.

[S13, § 4999-a35; C24, 27, 31, 35, 39, § **3038**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.10]

189.11 Labeling of mixtures federal requirements.

In addition to the requirements of section 189.9, unless otherwise provided, articles which are mixtures, compounds, combinations, blends, or imitations shall be marked as such and immediately followed, without any intervening matter and in the same size and style of type, by the names of all the ingredients contained therein, beginning with the one present in the largest proportion.

Notwithstanding any other requirements of this chapter or of chapter 190, foods and food products labeled in conformance with the labeling requirements of the government of the United States shall be deemed to be labeled in conformance with the laws of the state of Iowa.

[S13, § 2510-d, -r, -v2, 5077-a7; SS15, § 4999-a31c; C24, 27, 31, 35, 39, § **3039**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.11]

189.12 Trade formulas.

Nothing in section 189.11 shall be construed as requiring the printing of a patented or proprietary trade formula on a label.

[S13, § 5077-a7; SS15, § 4999-a31c; C24, 27, 31, 35, 39, § **3040**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.12]

189.13 False labels defacement.

A person shall not use any label required by this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this subtitle, excluding chapters 203, 203C, 203D, 207, and 208.

[C73, § 4042; C97, § 2517, 49894991; S13, § 2510-s, -v3, 2515-bd, 4999-a35, 5077-a7; SS15, § 4999-a31c; C24, 27, 31, 35, 39, § **3041**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.13]

94 Acts, ch 1023, §25; 2003 Acts, ch 69, §33

189.14 Misabeled articles.

1. A person shall not knowingly introduce into this state, solicit orders for, deliver, transport, or have in possession with intent to sell, any article which is labeled in any other manner than that prescribed by this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, for the label of the article when offered or exposed for sale, or sold in package or wrapped form in this state.

2. No person shall package any liquid or semisolid product or label any such product as honey, imitation honey or honey blend, or use the word "honey" in any prominent location on the label of such product or sell or offer for sale any such product which is labeled as honey, imitation honey or honey blend or which contains a label with the word "honey" prominently displayed thereon, unless the entire product is honey as defined in section 190.1, subsection 4.

3. A person shall not package a liquid or semisolid product, or label the product, as sorghum, imitation sorghum, or sorghum blend, or use the word "sorghum" in a prominent location on the label of the product or sell or offer for sale a product labeled as sorghum, imitation sorghum, or sorghum blend or which contains a label with the word "sorghum" prominently displayed, unless the product label states that the product is sorghum syrup as defined in section 190.1, imitation sorghum, or a sorghum blend. As used in this subsection, "*imitation sorghum*" means a product that has the flavor of sorghum but contains no sorghum syrup as defined in section 190.1. "*Sorghum blend*" means a product that is not entirely sorghum syrup as defined in section 190.1.

[C73, § 4042; C97, § 2516, 2517, 2519, 49894991, 5070; S13, § 2510-b, -q, -r, -v1, -v2, 2515-bd, 2528-f, 4999-a20, 5070-a; SS15, § 4999-a32; C24, 27, 31, 35, 39, § **3042**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.14]

89 Acts, ch 151, §1; 94 Acts, ch 1023, §26; 2003 Acts, ch 69, §34

189.15 Adulterated articles.

A person shall not knowingly manufacture, introduce into the state, solicit orders for, sell, deliver, transport, have in possession with the intent to sell, or offer or expose for sale, any article which is adulterated according to the provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208.

[C73, § 3901, 4042; C97, § 2508, 2516, 49894991; S13, § 2508, 2510-q, -r, -v1, -v2, 2515-bd, 4999-a20;

SS15, § 4999-a32; C24, 27, 31, 35, 39, § **3043**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.15]

94 Acts, ch 1023, §27; 2003 Acts, ch 69, §35

189.16 Possession and control of adulterated and improperly labeled articles.

1. Except as provided in subsection 2, a person in possession or having control of an article which is adulterated or which is improperly labeled according to the provisions of this subtitle shall be presumed to know that the article is adulterated or improperly labeled. A person's possession of an adulterated or improperly labeled article shall be prima facie evidence that the person intends to violate the provisions of this subtitle.

2. This section does not apply to the possession or control of any of the following:

- a. Grain by a person regulated under chapter 203, 203C, or 203D.
- b. Mining materials including coal by a person regulated under chapter 207 or 208.
- c. A controlled substance as provided in chapter 124.

[C97, § 2519, 2521; S13, § 4999-a24, -a40; C24, 27, 31, 35, 39, § **3044**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 189.16]

94 Acts, ch 1023, §28; 99 Acts, ch 12, §7; 2003 Acts, ch 69, §36

189.17 Confiscation or condemnation.

Unless a procedure or method of seizure and confiscation or condemnation is otherwise provided, the secretary is hereby authorized to prohibit the entrance into channels of commerce or possession of any article found to be adulterated or improperly labeled according to the provisions of this division or rules established hereunder. Any articles found in channels of commerce or in possession by an inspector which are not in compliance with the adulteration or labeling provisions of this division shall be subject to immediate seizure by the department. Seized articles shall be condemned unless of such character that the articles can be made to conform with the provisions of this division by methods approved by the secretary. Condemned articles shall be effectively destroyed for the purpose for which they were intended by the owner of the article, or the owner's agent, under the supervision of an inspector in such manner as the secretary may prescribe.

[C71, 73, 75, 77, 79, 81, § 189.17]

189.18 Wrongful condemnation restitution.

A party whose article, item, commodity or product is wrongfully condemned or seized shall be entitled to maintain a cause of action against the state of Iowa, for the damage proximately caused by the wrongful condemnation or seizure. Such cause of action shall be a claim as defined in chapter 669 and shall be subject to the provisions of said chapter, notwithstanding the provisions of section 669.14.

[C71, 73, 75, 77, 79, 81, § 189.18]

189.19 Licenses.

The following provisions apply to all licenses issued or authorized under this subtitle, excluding chapters 203, 203C, 203D, 207, and 208:

1. *Applications.* Applications for licenses shall be made upon blanks furnished by the department and shall conform to the prescribed rules of the department.

2. *Refusal and revocation.* For good and sufficient grounds the department may refuse to grant a license to any applicant; and it may revoke a license for a violation of any provision of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, or for the refusal or failure of any licensee to obey the lawful directions of the department.

3. *Expiration.* Unless otherwise provided all licenses shall expire one year from the date of issue.

[C97, § 2525; S13, § 2515-a; SS15, § 2515-f, 3009-m; C24, 27, 31, 35, 39, § **3045**; C46, 50, 54, 58, 62, 66, § 189.17; C71, 73, 75, 77, 79, 81, § 189.19]

94 Acts, ch 1023, §29; 2003 Acts, ch 69, §37, 38

189.20 Injunction.

Any person engaging in any business for which a license is required by this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, without obtaining such license, may be restrained by injunction, and shall pay all costs made necessary by such procedure.

[C24, 27, 31, 35, 39, § **3046**; C46, 50, 54, 58, 62, 66, § 189.18; C71, 73, 75, 77, 79, 81, § 189.20]

94 Acts, ch 1023, §30; 2003 Acts, ch 69, §39

189.21 Penalty.

Unless otherwise provided, any person violating any provision of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, or any rule adopted by the department pursuant to such a provision, is guilty of a simple misdemeanor.

[C73, § 2068, 3901; C97, § 2508, 2527, 2592, 2594, 3029, 5070; S13, § 2508, 2510-2a, -h, -j, -u, -v5, 2515-g, 2522, 2528-c, -f3, 2596-b, 4989-b, 4999-a25, -a39, 5070-a, 5077-a23; SS15, § 2505, 2506, 3009-j, -r; C24, 27, 31, 35, 39, § **3047**; C46, 50, 54, 58, 62, 66, § 189.19; C71, 73, 75, 77, 79, 81, § 189.21]

94 Acts, ch 1023, §31; 2003 Acts, ch 69, §40

189.22 May charge more than one offense.

In any criminal proceeding brought for violation of this subtitle,* an information or indictment may charge as many offenses as it appears have been committed, and the defendant may be convicted of any or all of the offenses.

[C24, 27, 31, 35, 39, § **3048**; C46, 50, 54, 58, 62, 66, § 189.20; C71, 73, 75, 77, 79, 81, § 189.22]

94 Acts, ch 1023, §32

Footnotes

*This provision does not include chapters 203, 203C, 203D, 207, and 208, which were moved into this subtitle by the Code editor. Chapters 203, 203C,

203D, 207, and 208 contain the applicable provisions pertaining to those chapters.

189.23 Common carrier.

The penalties provided in this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, shall not be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, when the same was received by the carrier for transportation in the ordinary course of its business and without actual knowledge of its true character.

[C97, § 2516; S13, § 4999-a20; SS15, § 4999-a32; C24, 27, 31, 35, 39, § **3049**; C46, 50, 54, 58, 62, 66, § 189.21; C71, 73, 75, 77, 79, 81, § 189.23]

94 Acts, ch 1023, §33; 2003 Acts, ch 69, §41

189.24 Report of violations.

When it appears that any of the provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, have been violated, the department shall at once certify the facts to the proper county attorney, with a copy of the results of any analysis, examination, or inspection the department may have made, duly authenticated by the proper person under oath, and with any additional evidence which may be in possession of the department.

[C97, § 4998; S13, § 4999-a19; C24, 27, 31, 35, 39, § **3050**; C46, 50, 54, 58, 62, 66, § 189.22; C71, 73, 75, 77, 79, 81, § 189.24]

94 Acts, ch 1023, §34; 2003 Acts, ch 69, §42

189.25 County attorney.

The county attorney may at once institute the proper proceedings for the enforcement of the penalties provided in this subtitle* for the violations.

[C97, § 4998; S13, § 2596-c, 4999-a19; C24, 27, 31, 35, 39, § **3051**; C46, 50, 54, 58, 62, 66, § 189.23; C71, 73, 75, 77, 79, 81, § 189.25]

94 Acts, ch 1023, §35

Footnotes

*This provision does not include chapters 203, 203C, 203D, 207, and 208, which were moved into this subtitle by the Code editor. Chapters 203, 203C, 203D, 207, and 208 contain the applicable provisions pertaining to those chapters.

189.26 Refusal to act.

If the county attorney refuses to act, the governor may, in the governor's discretion, appoint an attorney to represent the state.

[S13, § 4999-a19; C24, 27, 31, 35, 39, § **3052**; C46, 50, 54, 58, 62, 66, § 189.24; C71, 73, 75, 77, 79, 81, §

189.26]

189.27 Institution of proceedings.

In any case when it appears that any of the provisions of this subtitle* have been violated, the inspector having the investigation in charge shall, when instructed by the department, file an information against the suspected party.

[C24, 27, 31, 35, 39, § **3053**; C46, 50, 54, 58, 62, 66, § 189.25; C71, 73, 75, 77, 79, 81, § 189.27]

94 Acts, ch 1023, §36

Footnotes

*This provision does not include chapters 203, 203C, 203D, 207, and 208, which were moved into this subtitle by the Code editor. Chapters 203, 203C, 203D, 207, and 208 contain the applicable provisions pertaining to those chapters.

189.28 Goods for sale in other states.

Any person may keep articles specifically set apart in the person's stock for sale in other states which do not comply with the provisions of this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, as to standards, purity, or labeling.

[S13, § 4999-a20, -a40; C24, 27, 31, 35, 39, § **3054**; C46, 50, 54, 58, 62, 66, § 189.26; C71, 73, 75, 77, 79, 81, § 189.28]

94 Acts, ch 1023, §37; 2003 Acts, ch 69, §43

189.29 Reports by dealers.

Every person who deals in or manufactures any of the articles dealt with in this subtitle, excluding chapters 203, 203C, 203D, 207, and 208, shall make upon blanks furnished by the department such reports and furnish such statistics as may be required by the department and certify to the correctness of the same.

[C97, § 2522; S13, § 2522; C24, 27, 31, 35, 39, § **3055**; C46, 50, 54, 58, 62, 66, § 189.27; C71, 73, 75, 77, 79, 81, § 189.29]

94 Acts, ch 1023, §38; 2003 Acts, ch 69, §44

189.30 Contracts invalid.

No action shall be maintained in any of the courts of the state upon any contract or sale made in violation of or with the intent to violate any provision of this subtitle* by one who was knowingly a party thereto.

[C97, § 2520; C24, 27, 31, 35, 39, § **3056**; C46, 50, 54, 58, 62, 66, § 189.28; C71, 73, 75, 77, 79, 81, § 189.30]

94 Acts, ch 1023, §39

Footnotes

*This provision does not include chapters 203, 203C, 203D, 207, and 208, which were moved into this subtitle by the Code editor. Chapters 203, 203C, 203D, 207, and 208 contain the applicable provisions pertaining to those chapters.

189.31 Fees paid into state treasury.

All fees collected under the provisions of this subtitle* shall be paid into the state treasury.

[C97, § 2507; SS15, § 2507, 2515-f, 3009-m; C24, 27, 31, 35, 39, § **3057**; C46, 50, 54, 58, 62, 66, § 189.29; C71, 73, 75, 77, 79, 81, § 189.31]

94 Acts, ch 1023, §40

Footnotes

*This provision does not include chapters 203, 203C, 203D, 207, and 208, which were moved into this subtitle by the Code editor. Chapters 203, 203C, 203D, 207, and 208 contain the applicable provisions pertaining to those chapters.

See also § 200.9

Time of payment, see § 12.10