

1991—No. 483

WAREHOUSEMEN'S LIENS ACT 1935—REGULATION

(Warehousemen's Liens Regulation 1991)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Warehousemen's Liens Act 1935, has been pleased to make the Regulation set forth hereunder.

PETER COLLINS
Minister for Consumer Affairs.

Citation

1. This Regulation may be cited as the Warehousemen's Liens Regulation 1991.

Definitions

2. In this Regulation:

“the Act” means the Warehousemen's Liens Act 1935.

Prescribed notice of claim under secs. 5 and 6

3. The prescribed notice of claim referred to in sections 5 and 6 of the Act is a notice:

- (a) that is in writing; and
- (b) that identifies the goods to which it relates; and
- (c) that specifies the name and address of the person by or on whose behalf the claim is made; and
- (d) that specifies whether that person claims to be the owner of the goods or merely to have an interest in the goods and, if the latter is the case, the nature of the interest claimed.

Application for stay of proceedings

4. (1) An application for a stay of proceedings under section 6 of the Act is to be made by means of a notice in writing lodged with the Clerk of the Local Court for the district in which the premises of the warehouseman are situated.

(2) Such a notice must contain:

- (a) a brief description of the goods; and
- (b) a summary of the charges claimed by the warehouseman; and
- (c) a summary of the reasons for which it is claimed that the proceedings should be stayed.

(3) On receiving an application, the Clerk of the Local Court must appoint a time and place for the hearing of the application.

(4) The applicant must cause notice of the time and place appointed for the hearing to be served on the warehouseman at least 2 days before the date of the hearing.

(5) Service of such a notice may be effected in the same way as service of a summons may be effected under section 63 of the Justices Act 1902 or (if the warehouseman is a company) in any way that complies with the requirements of the Corporations Law in relation to the service of summonses.

Verification of statements of account etc.

5. (1) The copies of the statement of account that are furnished to the Public Trustee under section 8 (3) of the Act must be verified by the signature of the warehouseman or of some other person on the warehouseman's behalf.

(2) Written particulars of the following matters must be furnished to the Public Trustee together with the copies of the statement of account:

- (a) the date of deposit of the goods;
- (b) the name and address of the person who deposited the goods;
- (c) the name and address of the owner of the goods and of each person who claims to be the owner of the goods or to have an interest in the goods, including the name and address of any person who claims to be the holder of a bill of sale in respect of the goods;
- (d) particulars of any such claim;
- (e) particulars of any searches carried out by or on behalf of the warehouseman under the Bills of Sale Act 1898;

- (f) such other relevant information as is in the possession of the warehouseman.

Charges payable to the Public Trustee

6. (1) The Public Trustee is entitled to deduct the following charges from any amount held by the Public Trustee under section 8 of the Act:

- (a) 5 per cent of the amount so held, or \$20, whichever is the greater;
- (b) any fees prescribed under the Public Trustee Act 1913 in relation to the amount so held.

(2) The Public Trustee may waive or remit any charge to which the Public Trustee is entitled under this clause.

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EXPLANATORY NOTE

The object of this Regulation is to remake, without any substantive changes, the provisions of the Warehousemen's Liens Regulations 1935. These provisions deal with:

- (a) the form in which a notice of claim referred to in sections 5 and 6 of the Warehousemen's Liens Act 1935 is to be made; and
- (b) the procedures to be adopted in connection with a stay of proceedings under section 6 of that Act; and
- (c) the verification of statements of account in relation to the proceeds of sale of goods the subject of a lien that are sold in accordance with section 8 of that Act; and
- (d) the charges that may be retained by the Public Trustee out of payments made to the Public Trustee under section 8 of that Act.

This Regulation is made in connection with the staged repeal of subordinate legislation. under Part 3 of the Subordinate Legislation Act 1989.
