

# Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Act 2006 No 119

[2006-119]



New South Wales

## Status Information

### Currency of version

Repealed version for 4 December 2006 to 4 December 2006 (accessed 15 October 2024 at 7:19)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by sec 5 (1) of this Act with effect from 5.12.2004.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 5 December 2006

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New South Wales

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# Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Act 2006 No 119



New South Wales

An Act to amend the *Sale of Goods Act 1923* and the *Warehousemen's Liens Act 1935* in relation to the sale and storage of bulk goods.

## 1 Name of Act

This Act is the *Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Act 2006*.

## 2 Commencement

This Act commences on the date of assent to this Act.

## 3 Amendment of *Sale of Goods Act 1923* No 1

The *Sale of Goods Act 1923* is amended as set out in Schedule 1.

## 4 Amendment of *Warehousemen's Liens Act 1935* No 19

The *Warehousemen's Liens Act 1935* is amended as set out in Schedule 2.

## 5 Repeal of Act

(1) This Act is repealed on the day following the day on which this Act commences.

(2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

## Schedule 1 Amendment of *Sale of Goods Act 1923*

(Section 3)

### [1] Section 21 Goods must be ascertained

Omit "Where". Insert instead "Subject to section 25A, where".

### [2] Section 25A

Insert after section 25:

**25A Contracts of sale for goods forming part of bulk quantity** (cf *Sale of Goods Act 1979* of the United Kingdom, sections 20A and 20B)

- (1) This section applies to a contract of sale for a specified quantity of unascertained goods of which some or all form part of a single bulk quantity of goods of the same kind (**the bulk**) if:
  - (a) the bulk is identified, either in the contract or by subsequent agreement between the parties, and
  - (b) the buyer has paid for some or all of the goods that form part of the bulk.
- (2) Unless the parties agree otherwise:
  - (a) property in an undivided share in the bulk is transferred to the buyer, and
  - (b) the buyer becomes an owner in common of the bulk,as soon as both of the conditions referred to in subsection (1) have been met.
- (3) The buyer's undivided share in the bulk at any time is such share as, at that time, is equivalent to the quantity of goods paid for and due to the buyer out of the bulk divided by the quantity of goods in the bulk.
- (4) If at any time the aggregate of all buyers' undivided shares in the bulk exceeds the whole of the bulk, those shares are to be reduced proportionately so that their aggregate is equal to the bulk.
- (5) If a buyer has paid for some only of the goods due to the buyer out of the bulk, any delivery to the buyer out of the bulk is to be attributed to the goods for which payment has been made.
- (6) Part payment for any goods is taken to be payment for a corresponding part of the goods.
- (7) A person who becomes an owner in common of the bulk is taken to consent to:
  - (a) any delivery of goods out of the bulk to any other owner in common of the bulk, being goods that are due to that other owner under a contract to which this section applies, and
  - (b) any dealing with, or removal, delivery or disposal of, goods in the bulk by any other owner in common of the bulk, but only to the extent of that other owner's undivided share in the bulk.
- (8) No cause of action lies against any person by reason of that person's having acted in accordance with subsection (7) (a) or (b) in reliance on the consent that

exists by virtue of that subsection.

(9) Nothing in this section:

- (a) imposes an obligation on a buyer of goods out of the bulk to compensate any other buyer of goods out of the bulk for any shortfall in the quantity of goods received by that other buyer, or
- (b) affects any contract or other arrangement between buyers of goods out of the bulk for adjustments between themselves, or
- (c) affects the rights of any buyer under a contract to which this section applies.

(10) This section does not apply to a contract of sale entered into before the commencement of the *Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Act 2006*.

## Schedule 2 Amendment of Warehousemen's Liens Act 1935

(Section 4)

### [1] Long title

Insert “; and for other purposes” after “liens”.

### [2] Section 9A

Insert after section 9:

#### 9A Intermingled goods

- (1) This section applies to goods that have been deposited with a warehouseman by their owner, or by his or her authority, and that have become intermingled with other goods of the same kind owned by, or deposited with, the warehouseman so as to form a single bulk quantity (**the bulk**).
- (2) Unless the parties otherwise agree:
  - (a) the owner's property in the goods becomes property in an undivided share in the bulk, and
  - (b) the owner becomes an owner in common of the bulk, and
  - (c) subject to paragraph (d), the owner and warehouseman each have, in relation to the owner's undivided share in the bulk, the same obligations as they would have had in relation to the goods had they not become part of the bulk, and
  - (d) the warehouseman's obligation to deliver the goods to, or to the order of,

the owner becomes an obligation to deliver an equivalent quantity of goods out of the bulk to, or to the order of, the owner,

as from the time the goods become part of the bulk.

- (3) The owner's undivided share in the bulk at any time is such share as, at that time, is equivalent to the quantity of goods that have been deposited by the owner less the quantity of goods that have been delivered out of the bulk to, or to the order of, the owner.
- (4) If at any time the aggregate of all owners' undivided shares in the bulk exceeds the whole of the bulk, those shares are to be reduced proportionately so that their aggregate is equal to the bulk.
- (5) A person who becomes an owner in common of the bulk is taken to consent to:
  - (a) any delivery of goods out of the bulk to any other owner in common of the bulk, being goods to which this section applies, and
  - (b) any dealing with, or removal, delivery or disposal of, goods in the bulk by any other owner in common of the bulk, but only to the extent of that other owner's undivided share in the bulk.
- (6) No cause of action lies against any person by reason of that person's having acted in accordance with subsection (5) (a) or (b) in reliance on the consent that exists by virtue of that subsection.
- (7) This section does not apply to goods deposited with a warehouseman before the commencement of the *Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Act 2006*.