

Western Australia

**Warehousemen's Liens Act Regulations and  
Rules of Court 1952.**

---

As at 11 Nov 1998

Version 00-a0-07

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



## **Warehousemen's Liens Act Regulations and Rules of Court 1952.**

---

### **CONTENTS**

---

#### **Part I**

- |    |             |   |
|----|-------------|---|
| 1. | Citation    | 2 |
| 2. | Definitions | 2 |

#### **Part II**

- |    |   |   |
|----|---|---|
| 3. | Notice of Claim Section 6 (1) (a)         | 3 |
| 4. | Notice of Lien Section 6 (2)              | 3 |
| 5. | Notice by advertisement Section 9 (3) (a) | 3 |
| 6. | Statement of Account Section 10 (4)       | 3 |
| 7. | Penalty                                   | 4 |

#### **Part III**

- |    |   |   |
|----|---|---|
| 1. | Applications to Court. Section 7 (7) (a)    | 5 |
| 2. | Interpretation                              | 5 |
| 3. | Notice of Day Fixed for Hearing Application | 5 |
| 4. | Appearance                                  | 6 |
| 5. | Order                                       | 6 |
| 6. | Procedure                                   | 7 |
| 7. | Local Court Fees                            | 7 |

#### **Appendix**

#### **Notes**



Western Australia

WAREHOUSEMEN'S LIENS ACT 1952

**Warehousemen's Liens Act Regulations and  
Rules of Court 1952.**

Crown Law Department,  
Perth, 11th February 1953.

HIS Excellency the Governor in Executive Council, acting pursuant to the provisions of the *Warehousemen's Liens Act 1952*, has been pleased to make the regulations and rules of court set out in the Schedule hereunder:

H. SHEAN,  
Under Secretary for Law.

## **Part I**

### **1. Citation**

These regulations may be cited as the Warehousemen's Liens Act Regulations and Rules of Court 1952.

### **2. Definitions**

In these regulations, unless the context otherwise requires —

**“Act”** means the Warehousemen's Liens Act 1952;

**“warehouseman”** means a person lawfully engaged in the business of storing goods as a bailee for hire or reward.

## **Part II**

### **3. Notice of Claim Section 6 (1) (a)**

A claim by a person to be the owner of goods deposited with a warehouseman or of an interest in them shall be in accordance with Form 1 in the Appendix to these regulations.

### **4. Notice of Lien Section 6 (2)**

The notice of the lien given by the warehouseman within three months after the date of the deposit of the goods shall be in accordance with Form 2 in the Appendix to these regulations.

### **5. Notice by advertisement Section 9 (3) (a)**

- (1) Where a person to whom a notice may be given pursuant to the provisions of section six or seven of the Act is unknown to the warehouseman, or where no address of the person is known to the warehouseman, the notice may be given by advertisement.
- (2) The advertisement shall include a full copy of the notice and shall be published —
  - at least twice with an interval between the advertisements of at least seven days,
  - in a newspaper circulating in the locality where the premises of the warehouseman is situated, and, if the newspaper is not a daily newspaper, in a daily newspaper circulating in the City of Perth.
- (3) The notice shall be deemed to have been given on the day upon which the last of the advertisements was published.

### **6. Statement of Account Section 10 (4)**

- (1) The duplicate copies of the statement of account required to be furnished in accordance with section 10 (4) of the Act shall be verified by a statutory declaration made by the warehouseman or by some competent person on his behalf.

**s. 7**

---

- (2) The warehouseman at the time of paying the surplus into a local Court or to the Treasurer as the case may be shall also furnish to the Local Court or the Treasurer the following particulars in writing: —
- (a) The date of deposit of the goods.
  - (b) The name and address of the person who deposited such goods and the name and address of the owner thereof and of every person claiming to be the owner thereof or of any interest therein including the name and address of the grantee of the goods under any bill of sale of which the warehouseman has notice.
  - (c) Full particulars known to the warehouseman of all of such claims.
  - (d) Full particulars of all searches made by or on behalf of the warehouseman under the *Bills of Sale Act 1899*, as amended by subsequent Acts, and of the results of such searches.
  - (e) Such other information relating to the transaction as may be known to the warehouseman.

**7. Penalty**

A person who commits a breach of these regulations is guilty of an offence. Penalty ten pounds.



## **Part III**

### **Rules of Court**

#### **1. Applications to Court. Section 7 (7) (a)**

- (1) An application for an order staying further proceedings under section 7 (7) (a) of the Act by a person having an interest in the goods shall be made in writing in accordance with Form 3 in the Appendix to these regulations and rules of court to the Clerk of the Local Court nearest to the premises of the warehouseman where the goods are deposited for storage who shall set the application down for hearing.
- (2) The application shall set out —
  - (a) a brief description of the goods;
  - (b) the sum claimed by the warehouseman to be due as warehouseman's charges; and
  - (c) the reasons why further proceedings should be stayed.
- (3) At the time of lodging the application the applicant shall deliver to the Clerk of the Local Court one copy of the application for the Court and one for each party to be served.

#### **2. Interpretation**

In an application the party making it shall be termed "the applicant" and the warehouseman shall be termed "the respondent."

#### **3. Notice of Day Fixed for Hearing Application**

- (1) On the day for the hearing of the application being fixed, the Clerk of the Local Court shall give notice in writing in accordance with Form 4 in the Appendix hereto to the applicant stating the place where and the day and hour when the matter will be proceeded with. A copy of the application under the Seal of the Local Court shall be issued for service on the respondent together with a notice under the Seal of the Court in accordance

**s. 4**

---

with Form 5 in the Appendix hereto stating where and the day and hour when the matter shall be proceeded with.

- (2) If the applicant or respondent does not attend the hearing in person or by his solicitor, an order may be made and proceedings taken as the Court shall think just and expedient.
- (3) The copies and notices may be served in accordance with the rules for service of ordinary summonses.
- (4) At the hearing the Court may, in its discretion, receive as evidence statutory declarations, but may, if it thinks fit, require the attendance of any declarant for the purposes of cross-examination on the contents of his declaration, and falling attendance, may refuse to receive in evidence the declaration.

**4. Appearance**

- (1) If a respondent desires to oppose the application, he shall appear before the Local Court on the day fixed for the hearing or on any day to which the proceedings shall have been postponed or adjourned, due notice of which the Clerk of the Court shall have given him. In default of appearance of any party the Magistrate may, after proof of due service of notices and copies of the application as required on all parties entitled thereto, proceed to hear the application and to make a determination thereon.
- (2) If it appears to the Court, before or at the hearing that a copy of the application and the notice or of either of them was not duly served upon any party in time to enable him to appear in the Court on the day of hearing, or that for any other sufficient cause any party is unable to appear on the day, the Court may adjourn the proceedings on such terms as to costs and otherwise as may be just.

**5. Order**

The order of the Local Court, on any application under the Act, shall be signed by the Magistrate thereof and shall be sealed and filed, and sealed copies of the order shall be served on all

persons affected thereby, and every order shall be enforceable in the same manner as a judgment of the Court.

**6. Procedure**

The practice and rules of Court made under the *Local Court Act 1904* and the procedure for the time being in force in the Local Court shall, in so far as applicable and not inconsistent with these rules, apply with necessary modifications approved by the Court, to any application to the Court under the Act.

**7. Local Court Fees**

The fees payable in respect of proceedings in the Local Court under the Act shall be such fees as would be applicable under the *Local Courts Act 1904* and the Rules of Court made thereunder.

**Sch.**

---

**Appendix**

**Form 1**

**Regulation 3**

*Warehousemen's Liens Act 1952*

**NOTICE OF CLAIM**

To (insert name and address of warehouseman).

I, (insert full name of claimant) hereby give you notice that I claim to be the owner of the goods described in the Schedule hereto, or of an interest in the goods to the extent hereinafter set forth, which goods were deposited with you by on or about the day of 19 . (If an interest only in the goods is claimed the extent of the interest should be here stated). I hereby authorise you to serve all notices to me required by the Act at the following address (insert full address of claimant).

**Schedule**

(Insert particulars of the goods in respect of which the claim is made.)

Dated this ..... day of ..... 19.....  
.....

Witness

Signature of Claimant

**Form 2**

**Regulation 4**

*Warehousemen's Liens Act 1952*

**NOTICE OF LIEN**

To (insert name of person to whom notice of lien may be given)

TAKE notice that I, (insert name of warehouseman) under the provisions of section 6 of the Act hereby give notice of a lien in respect of goods deposited for storage and described in the Schedule hereto.

**Schedule**

Description of goods	Location of warehouse where goods are stored	Date of deposit of goods	Name of person who deposited goods
----------------------	--	--------------------------	------------------------------------

Dated this ..... day of ..... 19.....  
.....

Signature of Warehouseman

**Form 3**

*Warehousemen's Liens Act 1952*

**Rule 1**

**APPLICATION TO THE COURT FOR AN ORDER STAYING  
FURTHER PROCEEDINGS**

No. ....

In the Local Court at

Between

(Name of applicant)

and

(Name of warehouseman)

TAKE notice that I (name of applicant) the abovenamed applicant being the person having an interest in the goods described hereunder hereby make application for an order staying further proceedings under section 7 of the Act.

**Particulars**

1. Description of goods .....
2. The sum claimed by the warehouseman to be due as warehouseman's charges .....
3. Reasons why further proceedings should be stayed.....

Dated this ..... day of .....19 .....

Signed.....  
Applicant or Applicant's Solicitor

**Sch.**

---

**Form 4**

**Rule 3**

*Warehousemen's Liens Act 1952*

**NOTICE TO APPLICANT OF DAY UPON WHICH MATTER WILL BE  
PROCEEDED WITH**

Between

(a)

Applicant

and

(b)

Respondent

TAKE notice that the Court shall proceed with the hearing of your application  
made under the above Act at .....  
on the ..... day of ..... 19 .....,  
at the hour of ..... o'clock.

Dated this ..... day of ..... 19 .....  
.....

Clerk of the Court.

To .....  
of .....  
Applicant.....

(a) Name of applicant.      (b) Name of respondent.

**Form 5**

**Rule 3**

*Warehousemen's Liens Act 1952*

**NOTICE TO RESPONDENT OF DAY UPON WHICH  
MATTER WILL BE PROCEEDED WITH**

Between

(a)

Applicant

and

(b)

Respondent

TAKE notice that the Court shall proceed with the hearing applied for in the application, a sealed copy of which is served herewith, at .....on the .....day of .....19....., at the hour of..... o'clock in the noon; and that if you do not attend either in person or by your solicitor at the time and place abovementioned such order shall be made and proceedings taken as the Court may think just and expedient.

Dated this .....day of .....19 .....

.....  
Clerk of the Court.

To .....

of .....

Applicant.....

(a) Name of applicant.      (b) Name of respondent.

### **Notes**

- <sup>1.</sup> This is a compilation of the *Warehousemen's Liens Act Regulations and Rules of Court 1952* and includes the amendments referred to in the following Table.

### **Table of Regulations**

Regulation	Gazettal	Commencement	Miscellaneous
<i>Warehousemen's Liens Act Regulations and Rules of Court 1952</i>	20 February 1953 pp.368-71	20 February 1953	