

Queensland



STORAGE LIENS ACT 1973

**Reprinted as in force on 20 December 1995
(includes amendments up to Act No. 58 of 1995)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 20 December 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- reorder provisions consistent with current drafting practice (s 30A)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 39 and 40)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of changed citations and remade laws**
 - **table of obsolete and redundant provisions**
 - **table of renumbered provisions.**

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STORAGE LIENS ACT 1973

[as amended by all amendments that commenced on or before 20 December 1995]

An Act to amend the law relating to warehousing of goods

Short title

1. This Act may be cited as the *Storage Liens Act 1973*.

Interpretation

2. In this Act—

“**goods**” includes personal property of every description (save a motor vehicle) that may be deposited with a storer as bailee.

“**motor vehicle**” means a motor car, motor carriage, motor cycle, tractor or other vehicle propelled or designed to be propelled, wholly or partly by a volatile spirit, steam, gas, oil or electricity or by any means other than by human or animal power.

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

Declaration of storer’s lien

3. Subject to section 5, every storer shall have a lien on goods deposited with the storer for storage, whether deposited by the owner of the goods or by the owner’s authority, or by any person entrusted with the possession of the goods by the owner or by his or her authority.

Charges covered by lien

4. The lien shall be for the amount of the storer’s charges, that is to say—

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- (a) all lawful charges for storage and preservation of the goods; and
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooping, and other expenses in relation to the goods; and
- (c) all reasonable charges for any notice required to be given under this Act, and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the storer's lien.

Necessity of notice by storer where goods deposited by person entrusted with possession

5.(1) Subject to subsection (4) the storer shall within 3 months after the date of the deposit of the goods give notice of the lien—

- (a) to any person who has before the expiration of 2 months after the date of the deposit of the goods served upon the storer a notice, containing the prescribed particulars, of the person's claim to be the owner of the goods or of an interest in them or to be entitled to some charge thereon or of whose interest in them the storer has received notice as prescribed; and
- (b) to the grantee or (where a transfer or assignment by the grantee has been registered under the *Bills of Sale and Other Instruments Act 1955*, part 2) to the transferee or assignee of a bill of sale—
 - (i) which relates to the goods; and
 - (ii) which was granted by the person depositing the goods or by any other person of whose interest in the goods the storer has knowledge; and
 - (iii) which was registered in accordance with the said part 2 prior to the date of the deposit of the goods; and
 - (iv) which has not ceased to have any effect as to the chattels comprised therein or subject thereto or in respect of which a satisfaction has not been registered; and
- (c) to any other person of whose interest in the goods the storer at any time before the expiration of 2 months after the date of the deposit of the goods has knowledge.

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(2) The notice given by the storer under this section shall be in writing and contain—

- (a) a sufficient description of the goods; and
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the storer, and the name of the person by whom they were deposited; and
- (c) a statement that a lien is claimed by the storer in respect of the goods under this Act; and
- (d) such other particulars as are prescribed.

(3) Where the storer fails to give the notice required by this section, the storer's lien, as against the person to whom the storer has failed to give notice, shall be void as from the expiration of the period of 3 months from the date of the deposit of the goods.

(4) Nothing in this section requires notice of the lien to be given to the person by whom, or by whose authority, the goods were deposited with the storer.

Power to sell goods

6.(1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of storer's charges, a storer may sell by public auction, in the manner provided in this section, any goods upon which the storer has a lien for charges which have become due.

(2) The storer shall give written notice, containing the prescribed particulars, of the storer's intention to sell—

- (a) to the person liable as debtor for the charges for which the lien exists; and
- (b) to any person who has served upon the storer a prescribed notice of the person's claim to be the owner of the goods or of some interest therein or to be entitled to some charge thereon or of whose interest in them the storer has received notice as prescribed; and
- (c) to the grantee or (where a transfer or assignment by the grantee has been registered under the *Bills of Sale and Other Instruments*

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Act 1955, part 2) to the transferee or assignee of a bill of sale—

- (i) which relates to the goods; and
 - (ii) which was granted by the person depositing the goods or by any other person of whose interest in the goods the storer has knowledge; and
 - (iii) which was registered in accordance with the said part 2 prior to the date of the deposit of the goods; and
 - (iv) which has not ceased to have any effect as to the chattels comprised therein or subject thereto or in respect of which a satisfaction has not been registered; and
- (d) to any other person of whose interest in the goods the storer has knowledge.

(3) The notice shall contain—

- (a) a sufficient description of the goods; and
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the storer, and the name of the person by whom they were deposited; and
- (c) an itemised statement of the storer's charges showing the sum due at the time of the notice; and
- (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a date mentioned, not less than 30 days from the giving of the notice in a manner prescribed; and
- (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

(4) Where the charges are not paid on or before the day mentioned in the notice, and advertisement of the sale, describing the goods to be sold, and stating the time and place of sale, shall be published—

- (a) in a newspaper published in Brisbane and circulating throughout the State;
- (b) in a newspaper (if any) published in the district in which are situated the premises where the goods are deposited with the

storer.

(5) The sale shall be held not less than 28 days from the date of the publication in pursuance of subsection (4) of the advertisement, or where the advertisement is so published in more than 1 paper and on different days, the date of the last such publication.

(6) A Magistrates Court constituted by a stipendiary magistrate sitting alone held in the district in which are situated the premises where the goods are deposited with the storer may, on the application in the manner prescribed of any person having an interest in the goods, at any time after the giving of the notice by order stay further proceedings under this section for such period and on such terms as it deems just, and no proceedings under this section shall be taken by the storer after due service of such order on the storer, and during the period specified in the order.

(7) This section shall apply only to cases in which some part of the charges in arrear are in respect of a period more than 6 months prior to the date upon which the notice of intention to sell is given.

Sufficiency of notices

7. Where a notice of lien under section 5, or a notice of intention to sell under section 6 has been given, but such provisions have not been strictly complied with, if any court before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable that the lien or sale shall be void by reason of such noncompliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale.

Substituted service of notices

8.(1) Regulations made under section 20 may provide for the giving of notice by advertisement in cases where any person to whom notice may be given pursuant to section 5 or 6 is unknown to the storer, or where no address of any such person is known to the storer, and for the ascertainment of the day upon which such notice shall be deemed to have been given, and for any other matter relating to such advertisement.

(2) Any notice given by advertisement in accordance with such

regulations shall for the purposes of this Act be deemed to have been given personally on the date ascertained pursuant to the regulation.

Notices

10. A notice required or authorised by this Act to be given to any person shall be in writing.

Buyer of goods under Act to acquire good title

11.(1) The buyer of any goods sold by a storer in the exercise of the storer's powers under this Act shall acquire a good title to the goods.

(2) Upon any proceedings by or against the storer in respect of any goods sold by the storer in the exercise of powers under this Act, the burden of proving that the provisions of this Act relating to the sale of those goods have been complied with shall be upon the storer.

Right of owner of goods sold under Act

12. Where the bailor of any goods is not the owner thereof and the goods are sold by the storer in the exercise of powers under this Act without notice by the storer to the owner, the owner shall not be entitled to the return of the goods but shall have the same rights in respect of the proceeds of the sale of the goods as the storer would have had in respect of the goods if the property therein had not passed to the buyer by virtue of this Act.

Provision for payment of charges before sale

13.(1) At any time before goods are sold by virtue of this Act any person claiming any interest or rights of possession in the goods may pay the storer the amount necessary to satisfy the amount of the charges of the storer including the reasonable and necessary expenses incurred in serving notices, in publication of advertisements and in preparing for sale up to the time of payment.

(2) The storer shall deliver the goods to the person making the payment if he or she is the person entitled to the possession of the goods on payment of the storer's charges thereon, otherwise the storer shall retain possession of

the goods according to the contract (express or implied) for the deposit of the goods.

Implied covenant in bill of sale

14. There shall be implied in every bill of sale or other encumbrance over or in respect of any goods in favour of the grantee or encumbrancee, a covenant that the amount of any payment made by him or her in relation to those goods in terms of section 13 may be added to or be deemed to be included in, the principal moneys secured by such bill of sale or other encumbrance.

Disposal of proceeds of sale

15.(1) Where, after goods have been sold by virtue of this Act and the storer has deducted the charges covered by the storer's lien in relation to those goods, there remains a surplus of moneys in the hands of the storer, the storer shall within 28 days after the sale pay those moneys to the public trustee unless they have previously been paid to the person entitled thereto.

(2) Where the storer pays the surplus of any moneys to the person entitled thereto, the storer shall furnish to that person a record prepared by the storer in relation to the goods containing the following particulars, that is to say—

- (a) a sufficient description of the goods;
- (b) the date and place of the sale and the name and principal place of business of the auctioneer by whom the goods were sold;
- (c) the amount of the proceeds of the sale;
- (d) a statement of each item of the charges of the storer in relation to the goods and the transaction to which each item relates.

(3) Any moneys paid to the public trustee under this section shall be held by the public trustee on behalf of the person for the time being entitled thereto, and such person shall be entitled to be repaid such sum less any prescribed charges.

(4) Any such sum lying unclaimed in the hands of the public trustee for a

period of 6 years shall be deemed to be unclaimed moneys under and within the meaning of the *Public Trustee Act 1978* and shall be dealt with accordingly.

Right of owner to inspect goods

16. Where the bailor of the goods is not the owner thereof, then, at any time after notice of the bailor's lien has been given by the storer, the owner of the goods, and any person who has served upon the storer a notice of his or her claim to be the owner of the goods or of some interest therein, or to be entitled to some charge thereon, may, at a reasonable time and upon reasonable notice to the storer, enter upon the premises of the storer whereat the goods are kept under the bailment and inspect the goods.

Ambulatory operation of Act

17. Any provisions of this Act which apply to or in respect of any person by virtue of the person's rights or obligations in respect of any goods shall as respects a period during which those rights or obligations are vested in any other person apply to and in respect of that other person.

Saving of powers outside Act

18. The powers conferred on a person by this Act shall be in addition to and not in derogation of any powers exercisable by the person independently of this Act and without limiting the generality hereof where in relation to goods deposited with the person as bailee a storer complies with this Act the storer is not required to comply with the *Disposal of Uncollected Goods Act 1967* in that regard also.

Proceedings for offences

19. Proceedings for an offence against this Act may be taken by way of summary proceedings under the *Justices Acts 1886*.

Regulation making power

20.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may prescribe a penalty of not more than 2 penalty units for an offence against the regulation.

References to this Act

21. In an Act or document, a reference to the *Warehousemen's Liens Act 1973* is a reference to this Act.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 20 December 1995. Future amendments of the Storage Liens Act 1973 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Storage Liens Act 1973 No. 18 (prev Warehousemen's Liens Act 1973)

date of assent 13 April 1973
commenced on date of assent

as amended by—

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995
commenced on date of assent

5 List of annotations

Long title amd R1 (see RA s 39)

Short title

s 1 sub 1995 No. 58 s 4 sch 1

Interpretation

s 2 def “goods” amd 1995 No. 58 s 4 sch 1
def “Magistrates Court” om 1995 No. 58 s 4 sch 1
def “Magistrates Court District” om 1995 No. 58 s 4 sch 1
def “storer” ins 1995 No. 58 s 4 sch 1
def “warehouseman” amd 1995 No. 58 s 4 sch 1
om 1995 No. 58 s 4 sch 1

Declaration of storer's lien

prov hdg amd 1995 No. 58 s 4 sch 1
s 3 amd 1995 No. 58 s 4 sch 1

Charges covered by lien

s 4 amd 1995 No. 58 s 4 sch 1

Necessity of notice by storer where goods deposited by person entrusted with possession

prov hdg amd 1995 No. 58 s 4 sch 1
s 5 amd 1995 No. 58 s 4 sch 1

Power to sell goods

s 6 amd 1995 No. 58 s 4 sch 1

Sufficiency of notices

s 7 amd 1995 No. 58 s 4 sch 1

Substituted service of notices

s 8 amd 1995 No. 58 s 4 sch 1

Application of Act to goods accepted before commencement

s 9 om 1995 No. 58 s 4 sch 1

Notices

s 10 amd 1995 No. 58 s 4 sch 1

Buyer of goods under Act to acquire good title

s 11 amd 1995 No. 58 s 4 sch 1

Right of owner of goods sold under Act

s 12 amd 1995 No. 58 s 4 sch 1

Provision for payment of charges before sale

s 13 amd 1995 No. 58 s 4 sch 1

Disposal of proceeds of sale

s 15 amd 1995 No. 58 s 4 sch 1

Right of owner to inspect goods

s 16 amd 1995 No. 58 s 4 sch 1

Saving of powers outside Act

s 18 amd 1995 No. 58 s 4 sch 1

Regulation making power

s 20 sub 1995 No. 58 s 4 sch 1

References to this Act

s 21 prev s 21 om R1 (see RA s 40)
pres s 21 ins 1995 No. 58 s 4 sch 1

6 Table of changed names and titlesTABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
public curator	public trustee	Public Trustee Act 1978 s 143

7 Table of changed citations and remade lawsTABLE OF CHANGED CITATIONS AND REMADE LAWS
under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Public Curator Act 1915	Public Trustee Act 1978	—

8 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to Queensland implied	Acts Interpretation Act 1954 s 35

9 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under the Reprints Act 1992 s 43

Previous	Renumbered as
15(3), 2nd sentence	15(4)