

# *The Woodmen's Lien Act*

*being*

Chapter 207 of *The Revised Statutes of Saskatchewan, 1920*  
(assented to November 10, 1920).

**NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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SCHEDULE

## CHAPTER 207

### An Act respecting the Liens of Woodmen.

#### Short title

1 This Act may be cited as *The Woodmen's Lien Act*.

R.S.S. 1909, c.151, s.1; R.S.S. 1920, c.207, s.1.

#### Interpretation

2 In this Act, unless the context otherwise requires, the expression:

##### “Logs and timber”

1. “**Logs and timber**” includes logs, timbers, telegraph poles, railway ties, pulpwood, shingle bolts or staves or any of them, and fence posts and cordwood while lying piled for shipment by rail or water;

##### “Labour”

2. “**Labour**” includes cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;

##### “Judge”

3. “**Judge**” means a judge of any of the district courts in Saskatchewan.

R.S.S. 1909, c.151, s.2; R.S.S. 1920, c.207, s.2.

#### Contracts void where rights waived

3(1) Every agreement or bargain verbal or written, expressed or implied, made or entered into on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act by which it is agreed that this Act shall not apply or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic or other person.

(2) This section shall not apply to any foreman, manager, officer or other person whose wages are more than \$3 a day exclusive of board and lodgings.

R.S.S. 1909, c.151, s.3; R.S.S. 1920, c.207, s.3.

#### Nature of lien

4 Any person performing any labour in connection with any logs or timber within this province shall have a lien thereon for the amount due for such labour; and the same shall be deemed a first lien or charge on such logs or timber and shall have priority over all other claims or liens thereon except any lien or claim which the Crown has upon such logs or timber for or in respect of any dues or charges.

R.S.S. 1909, c. 151, s. 4; R.S.S. 1920, c.207, s.4.

**Lien to continue on statement being filed**

5(1) The lien provided for in section 4 shall not continue to be a charge on the logs or timber after the time within which the statement of claim hereinafter provided for is required to be filed unless such statement verified upon oath by the person claiming such lien or some one duly authorised on his behalf is filed as hereinafter provided.

(2) Such statement shall be in writing and shall be filed in the office of the clerk of the district court of the judicial district in which the labour or some part thereof has been performed:

Provided that when such labour has been performed upon any logs or timber got out to be run down or which have been run down any of the rivers or streams within or partly within Saskatchewan such statement may at the option of the claimant be filed in the office of the clerk of the district court of the judicial district wherein the drive terminates or reaches its destination.

R.S.S. 1909, c.151, s.5; R.S.S. 1920, c.207, s.5.

**Contents of statement**

6 Such statement (form A) shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant as near as may be over and above any legal set off or counterclaim and a description of the logs or timber upon or against which the lien is claimed.

R.S.S. 1909, c.151, s.6; R.S.S. 1920, c.207, s.6.

**Statement filed**

7 If such labour or any part thereof is performed between the first day of October and the first day of April next thereafter the statement of claim shall be filed on or before the thirtieth day of the said month of April; but if such labour or any part thereof is performed on or after the first day of April and before the first day of October in any year then such statement shall be filed within thirty days after the last day upon which such labour or some part thereof was performed.

R.S.S. 1909, c.151, s.7; R.S.S. 1920, c.207, s.7.

**Mortgage or sale not to affect lien**

8 No mortgage, sale or transfer of the logs or timber upon which a lien is claimed under this Act made during the time limited for the filing of such statement of claim and previous to the filing thereof or after the filing thereof and during the time limited for enforcement thereof shall in anywise affect such lien; but such lien shall remain and be in force against such logs or timber in whosoever possession the same are found.

R.S.S. 1909, c.151, s.8; R.S.S. 1920, c.207, s.8.

**Enforcement of lien**

**9** Any person or persons having a lien upon or against any logs or timber under this Act may enforce the same by action in the district court where such statement of lien is filed; and such action may be commenced to enforce such lien if the same is due immediately after the filing of such statement or if credit has been given immediately after the expiry of the period of credit; and such lien shall cease to be a lien upon the property named in such statement unless the proceedings to enforce the same are commenced within thirty days after the filing of the statement of claim or within thirty days after the expiry of the period of credit. In all such actions the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant.

R.S.S. 1909, c.151, s.9; R.S.S. 1920, c.207, s.9.

**Procedure**

**10** There shall be attached to or indorsed upon the writ of summons a copy of the lien claim as hereinbefore provided; and no other statement of claim shall be necessary unless ordered by the judge; and except as herein otherwise provided the practice shall be that of the district courts; writs may be served anywhere in the province in the same manner as in other cases and the judgment shall declare that the same is for labour, the amount thereof and costs and that the plaintiff has a lien therefor on the property described when such is the case.

R.S.S. 1909, c.151, s.10; R.S.S. 1920, c.207, s.10.

**Procedure subsequent to execution**

**11** When an execution has issued and has been placed in the sheriff's hands for execution and no attachment has been issued the proceedings for the enforcement of the lien shall be by sale under the execution and the proceedings relating to proof of other claims and the payment of other money into court and the distribution of money and otherwise shall as far as practicable be the same as hereinafter provided for proceedings upon and subsequent to an attachment.

R.S.S. 1909, c.151, s.11; R.S.S. 1920, c.207, s.11.

**Summary disposal of cases**

**12(1)** The judge may direct that any action brought to enforce a lien, under the provisions of this Act shall be disposed of summarily by him in chambers without waiting for the regular sittings of the court upon such terms as to notice and otherwise as the order provides and the same may be so heard and disposed of.

**(2)** The judge may also entertain in chambers any application to set aside an attachment or seizure or to release logs or timber that have been seized and may summarily dispose of the same.

R.S.S. 1909, c.151, s.12; R.S.S. 1920, c.207, s.12.

**Attachment to issue**

**13** Where the amount of any claim whereon action has been commenced as aforesaid is not less than \$10 upon the filing of a copy of the said claim and affidavit and of an affidavit made and sworn by the claimant of the amount of the claim due and owing and showing that the same has been filed as aforesaid and stating that:

- (a) he has good reason to believe and does believe that the logs or timber are about to be removed out of Saskatchewan; or
- (b) that the person indebted for the amount of such lien has absconded from the province with intent to defraud or defeat his creditors; or
- (c) that the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified;
- (d) and that he is in danger of losing his said claim if an attachment do not issue;

and if an affidavit corroborating the affidavit of the plaintiff in respect of clauses (a), (b) and (c) is also filed the judge of the proper district court may on application made to him *ex parte* direct the clerk to issue a writ of attachment directed to the sheriff of such court commanding him to attach, seize, take and safely keep such logs or timber or a sufficient portion thereof to secure the sum mentioned in the said writ and the costs of the action and of the proceedings to enforce the lien and to return the writ forthwith to the court out of which the same is issued.

R.S.S. 1909, c. 151, s.13; R.S.S. 1920, c.207, s.13.

**Second seizure**

**14** Where additional claims are made or the amount of claim is increased or a sufficient seizure has not been made a second or subsequent seizure may be made under either execution or attachment.

R.S.S. 1909, c. 151, s. 14; R.S.S. 1920, c.207, s.14.

**Service of writ**

**15** A copy of the writ of attachment shall be served upon the defendant; and if the defendant is not the owner of the logs or timber described in the writ of attachment a copy of the writ shall also be served upon the owner of said logs or timber or upon the agent or person in whose possession, custody or control for him they may be found; the owner may on his own application, or by the direction of a judge be made at the trial a party defendant.

R.S.S. 1909, c.151, s.15; R.S.S. 1920, c.207, s.15.

**Defendant cannot be found**

**16** In case the defendant or owner cannot be found within the province or the owner cannot be ascertained and no agent or person is in possession for the owner the writ may be served in such manner as the judge by order directs.

R.S.S. 1909, c.151, s.16; R.S.S. 1920, c.207, s.16.

**No seizure in transit**

**17** No sheriff shall seize upon or detain any logs or timber under the provisions of this Act when in transit by water from the place where cut to the place of destination.

R.S.S. 1909, c.151, s.17; R.S.S. 1920, c.207, s.17.

**Possession restored**

**18** In case of an attachment if the owner of the logs or timber or any person in his behalf executes and files with the clerk of the court out of which the attachment has issued a good and sufficient bond to the person claiming the lien executed by two sureties and conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings together with the amount for which a lien is claimed in any other action, if any, the judge may upon application *ex parte* if satisfied as to the sufficiency of the bond issue an order to the sheriff having in charge the logs or timber directing their release; and upon service of such order upon the sheriff he shall release the same.

R.S.S. 1909, c.151, s.18; R.S.S. 1920, c.207, s.18.

**Notice of dispute**

**19** Any person who has been served with a copy of the writ of attachment under this Act and who desires to dispute the same shall within twenty days after such service enter in the court in which proceedings are pending a notice that he or they dispute the claim upon the lien in whole or in part or file a statement of defence as the practice of the district courts may require.

R.S.S. 1909, c.151, s.19; R.S.S. 1920, c.207, s.19.

**Payment into court**

**20** The defendant may at any time after service of the writ of attachment and before the sale of the logs or timber pay into court the amount for which a lien is claimed in the action together with the amount for which a lien is claimed in any other action, if any, together with the costs of the proceedings thereon to the date of such payment taxed by the clerk of the court if so required; and the person making such payment shall thereupon be entitled to a certificate vacating such lien or liens; and upon the certificate being filed with the clerk of the district court in which the original statement or statements of claim was or were filed such lien or liens shall be vacated and all further proceedings therein shall cease and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment or the cancellation of any bond given under section 18.

R.S.S. 1909, c.151, s.20; R.S.S. 1920, c.207, s.20.

**Hearing**

**21** After the expiration of the time hereinbefore named within which notice of dispute may be entered or statement of defence filed the judge shall in chambers as provided by section 12 or at the next sitting of the court after due notice to all parties to the action and to all persons claiming liens on the logs or timber and whose liens are duly filed as aforesaid or to their solicitors hear all such parties and claimants and take all accounts necessary to determine the amounts, if any, due to them or any of them or to any other holders of liens who may be called by the judge to prove their liens and shall tax to them their costs and determine by whom the same shall be payable and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the right of the several parties.

R.S.S. 1909, c.151, s.21; R.S.S. 1920, c.207, s.21.

**Judge's order**

**22** At the conclusion of the inquiry the judge shall make his report and order which shall state his findings and direct the payment into the court in which proceedings are pending of the amounts, if any, so found due and the costs within ten days thereafter; and in default of such payment that the logs or timber shall be sold by the sheriff for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

R.S.S. 1909, c.151, s.22; R.S.S. 1920, c.207, s.22.

**Time and proceeds of sale**

**23** In default of payment into court under section 22 within the time named therein the said logs or timber shall within twenty days thereafter be sold by the sheriff holding the same in the manner and subject to the same provisions of law as goods and chattels seized or taken in execution unless the judge directs that additional publicity be given to the sale; and the amount realised by such sale shall after deducting the expenses thereof payable to the sheriff be paid into the court in which the proceedings are pending and shall upon the application of the several parties found to be entitled thereto under the order of the judge be paid out to them by the clerk of the court:

Provided that where the amount realised upon the sale is not sufficient to pay the claims in full and costs the judge shall apportion the amount realised *pro rata* among the different claimants.

R.S.S. 1909, c.131, s.23; R.S.S. 1920, c.207, s.23.

**Judgment and execution for balance**

**24** If after such sale and distribution of the proceeds thereof under section 23 any balance remains due to any person under the order of the judge judgment may be entered therefor against the person or persons by whom the claim was directed to be paid and execution may be issued thereupon as in the case of other judgments in the district court.

R.S.S. 1909, c.151, s.24; R.S.S. 1920, c.207, s.24.

**Discharge of liens**

**25** Where nothing is found due upon the several claims filed under this Act or upon the lien or liens in respect to which proceedings have been taken the judge may direct by his said order that the lien or liens be discharged and the logs or timber released or the security given therefor be delivered up and cancelled and shall also by such order direct payment forthwith of any costs which are found due to the defendant or owner of the said logs or timber.

R.S.S. 1909, c.151, s.25; R.S.S. 1920, c.207, s.25.

**Disposition of balance**

**26** Where more money is paid into court as the proceeds of the sale of logs or timber than is required to satisfy the liens which has been proved and the interest and costs the remaining moneys shall be paid over to the party entitled to the same unless the judge otherwise orders.

R.S.S. 1909, c.151, s.26; R.S.S. 1920, c.207,  
s.26.

**Dismissal for want of prosecution**

**27** Any person affected by proceedings taken under this Act may apply to the judge to dismiss the same for want of prosecution and the judge may make such order upon the application as to costs or otherwise as is just.

R.S.S. 1909, c.151, s.27; R.S.S. 1920, c.207,  
s.27.

**Adding parties**

**28** The judge may at any stage of such proceedings on the application of any party or as he sees fit order that any person who is deemed a necessary party to any such proceedings be added as a party thereto or be served with any process or notice provided for by this Act; and the judge may make such order as to the costs of adding such person or corporation or as to such service as is just.

R.S.S. 1909, c.151, s.28; R.S.S. 1920, c.207,  
s.28.

**Other remedies preserved**

**29** Nothing in this Act contained shall be deemed to disentitle any person to any other remedy than that afforded by this Act for the recovery of any amount due in respect of labour or any part thereof performed upon or in connection with any logs or timber; and where action is brought to enforce a lien but no lien is found to exist judgment may be directed for the amount found due as in an ordinary case.

R.S.S. 1909, c.151, s.29; R.S.S. 1920, c.207,  
s.29.

**Joinder of lienholders**

**30** Any number of lienholders may join in taking proceedings under this Act or may assign their claims to any one or more persons; but the statement of claim to be filed under section 5 shall include particular statements of the several claims of persons so joining and shall be verified by the affidavits of such persons so joining or separate statements of claim may be filed and verified as by this Act provided and one attachment or writ of summons issued on behalf of all the persons so joining.

R.S.S. 1909, c.151, s.30; R.S.S. 1920, c.207,  
s.30.

**Suits in different districts**

**31** Where suits are brought in more than one district court respecting liens or claims upon the same logs or timber the proceedings after the issue of the first summons or attachment shall be had in the district court out of which such summons or attachment first issued unless the judge otherwise orders.

R.S.S. 1909, c.151, s.31; R.S.S. 1920, c.207,  
s.31.

**Forms**

**32** The forms necessary to be used in any action or proceeding under this Act, the costs to be taxed to any party therein and the procedure regulating the practice in actions brought and other proceedings taken under the provisions of this Act shall so far as the same are not inconsistent with this Act be as nearly as may be according to the forms, tariff of costs and procedure in force in the district courts.

R.S.S. 1909, c.151, s.32; R.S.S. 1920, c.207, s.32.

SCHEDULE

FORM A

(Section 6)

STATEMENT OF CLAIM OR LIEN

A.B. (*name of claimant*), of (*here state residence of claimant*), (*if claim made as assignee then say as assignees of stating name and addresss of assignor*) under *The Woodsmen's Lien Act* claims a lien upon certain logs or timber of (*here state the name and residence, if known, of the owner of the logs or timber upon which the lien is claimed*) composed of (*state the kind of logs or timber, such as spruce, tamarack or other logs, ties, poles, posts, etc., also where situate at the time of filing of statement*), in respect of the following labour, that is to say (*here give a short description of the labour for which the lien is claimed*) which labour was performed for (*here state the name and residence of the person upon whose credit the labour was performed*) between the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ (per day, month or quantity).

The amount claimed as due (*or to become due*) is the sum of \_\_\_\_\_ (*when credit has been given* the said labour was performed on credit and the perios of credit will expire on the \_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ ).

.....  
*Signature of Claimant.*

AFFIDAVIT TO BE ATTACHED TO STATEMENT OF CLAIM

I, \_\_\_\_\_, make oath and say that I have read (*or have heard read*) the forgoing statement of claim and I say that the facts set forth therein are to the best of my knowledge and belief true and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (*naming the debtor*) is entitled to credit as against me.

Sworn before me at \_\_\_\_\_  
 in the Province of \_\_\_\_\_  
 this \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ . }  
 .....  
*Signature of Claimant.*