

UNEDITED

The Woodmen's Lien Act

being

Chapter 252 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

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 252

An Act respecting the Liens of Woodmen

Short title

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

R.S.S. 1953, c.252, s.1.

Interpretation

2 In this Act:

“judge”

1 “**judge**” means a judge of any of the district courts in Saskatchewan;

“labour”

2 “**labour**” includes cutting, skidding, felling, hauling, scaling, rossing, 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;

“logs or timber”

3 “**logs or timber**” includes logs, timber, telegraph poles, railway ties, pulpwood, shingle bolts, staves, fence posts and cordwood, or any of them.

1942, c.68, s.2; R.S.S. 1953, c.252, 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 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 as against such workman, servant, labourer, mechanic or other person.

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

1942, c.68, s.3; R.S.S. 1953, c.252, s.3.

Nature of lien

4 Any person performing labour in connection with logs or timber shall have a lien thereon and on all lumber manufactured therefrom for the amount due for such labour; and the same shall be a first lien or charge on the logs or timber or lumber 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 or lumber for or in respect of any dues or charges.

1942, c.68, s.4; R.S.S. 1953, c.252, s.4.

1Lien 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 or lumber after the time within which the statement of claim hereinafter provided for is required to be filed unless the statement, verified upon oath by the person claiming the lien or some one duly authorized on his behalf, is filed as hereinafter provided.

(2) The 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.

1942, c.68, s.5; R.S.S. 1953, c.252, s.5.

Contents of statement

6 The 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 or lumber upon or against which the lien is claimed.

1942, c.68, s.6; R.S.S. 1953, c.252, s.6.

Statement filed

7 If the labour or any part thereof is performed on or after the first day of October and before 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 the 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 the labour or some part thereof was performed.

1942, c.68, s.7; R.S.S. 1953, c.252, s.7.

Mortgage or sale not to affect lien

8 No mortgage, sale or transfer of the logs or timber or lumber 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 any way affect the lien; but the lien shall remain and be in force against such logs or timber or lumber in whosoever possession the same are found.

1942, c.68, s.8; R.S.S. 1953, c.252, s.8.

Limitation of time for enforcement of lien

9(1) Any person or persons having a lien upon or against logs or timber or lumber under this Act may enforce the same in the manner hereinafter provided.

(2) Proceedings may be commenced to enforce the lien, if the amount claimed is due, immediately after the statement of claim and affidavit have been filed in accordance with the foregoing provisions or, if credit has been given, immediately after the expiry of the period of credit.

(3) The lien shall cease to be a lien on the property described in the statement of claim unless proceedings to enforce the same are commenced within thirty days after the date upon which the statement of claim and affidavit were filed or within thirty days after the date upon which the period of credit expired.

1942, c.68, s.9; R.S.S. 1953, c.252, s.9.

Summary disposal of cases

10(1) The judge may direct that proceedings taken to or cases 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.

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

1942, c.68, s.10; R.S.S. 1953, c.252, s.10.

Commencement of proceedings to enforce lien

11(1) Proceedings to enforce the lien shall be taken in the district court of the judicial district in which the statement of claim and affidavit mentioned in section 5 are filed.

(2) Proceedings shall be commenced by filing in the office of the clerk of the court a copy of the statement of claim and affidavit along with an affidavit made and sworn by the claimant verifying the amount of the claim and showing that the statement of claim has been filed as required by section 7, that the amount is justly due and owing to him and that payment thereof has been demanded but has not been received.

1942, c.68, s.11; R.S.S. 1953, c.252, s.11.

Issue of writ of attachment

12 Upon the filing of the said documents the clerk shall attach and issue a writ of attachment directed to the sheriff commanding him to attach, seize, take and safely keep the logs or timber or lumber or a sufficient portion thereof to secure the sum mentioned in the writ and the costs of the proceedings to enforce the lien and to return the writ forthwith to the court out of which the same issued.

1942, c.68, s.12; R.S.S. 1953, c.252, s.12.

Second seizure

13 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.

1942, c.68, s.13; R.S.S. 1953, c.252, s.13.

Service of writ

14(1) A copy of the writ of attachment shall be served upon the person liable for payment of the debt, hereinafter called the defendant; and if the defendant is not the owner of the logs or timber or lumber described in the writ of attachment a copy of the writ shall also be served upon the owner of the logs or timber or lumber 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 a party defendant.

(2) A copy of the statement of claim shall be attached to the copy of the writ of attachment and served with it.

1942, c.68, s.14; R.S.S. 1953, c.252, s.14.

Service when defendant cannot be found

15 If 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.

1942, c.68, s.15; R.S.S. 1953, c.252, s.15.

Admission to make defence where service not personal

16 Where service upon the defendant or owner has not been personal the judge, notwithstanding that a defence has not been entered, may at any time before the close of the proceedings admit the defendant and the owner or either of them to make full defence upon such terms as he deems just.

1942, c.68, s.16; R.S.S. 1953, c.252, s.16.

No seizure in transit

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

1942, c.68, s.17; R.S.S. 1953, c.252, s.17.

Possession restored

18 In case of an attachment, if the owner of the logs or timber or lumber 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 which may be recovered by the claimant in the proceedings together with the amount for which any other lien is claimed in accordance with this Act, 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 or lumber directing their release; and upon service of the order upon the sheriff he shall release the same.

1942, c.68, s.18; R.S.S. 1953, c.252, s.18.

Notice of dispute

19 Any person who has been served with a copy of the writ of attachment and who desires to dispute the claim 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 court requires.

1942, c.68, s.19; R.S.S. 1953, c.252, s.19.

Payments into court

20(1) The defendant may at any time after service of the writ of attachment and before the sale of the logs or timber or lumber pay into court the amount for which the lien is claimed together with the amount for which any other lien is claimed and the costs of the proceedings 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 the lien or liens.

(2) 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 the lien or liens shall be vacated and all further proceedings thereon shall cease and the person making payment shall further be entitled to an order directing the delivery up of the logs or timber or lumber seized under the attachment or the cancellation of any bond given under section 18.

1942, c.68, s.20; R.S.S. 1953, c.252, 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 10 or at the next sitting of the court, after due notice to all parties to the proceedings and to all persons claiming liens on the logs or timber or lumber and whose liens are filed in accordance with this Act 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 matters necessary for the adjustment of the rights of the several parties.

1942, c.68, s.21; R.S.S. 1953, c.252, 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 payment into court 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 or lumber shall be sold by the sheriff for the satisfaction of the amounts found due to the several parties upon the inquiry and costs.

1942, c.68, s.22; R.S.S. 1953, c.252, s.22.

Time and proceeds of sale

23 In default of payment into court under section 22 within the time named therein the logs or timber or lumber 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 realized by such sale shall, after deducting the expenses thereof payable to the sheriff, be paid into court 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 realized upon the sale is not sufficient to pay the claims in full and costs the judge shall apportion the amount realized *pro rata* among the different claimants.

1942, c.68, s.23; R.S.S. 1953, c.252, s.23.

Judgement and execution for balance

24 If after the sale and distribution of the proceeds thereof 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.

1942, c.68, s.24; R.S.S. 1953, c.252, 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 of which proceedings have been taken the judge may direct that the lien or liens be discharged and the logs or timber or lumber released or the security given therefor be delivered up and cancelled and shall also direct payment forthwith of any costs which are found due to the defendant or owner of the logs or timber or lumber.

1942, c.68, s.25; R.S.S. 1953, c.252, s.25.

Disposition of balance

26 Where more money is paid into court as the proceeds of the sale of logs or timber or lumber than is required to satisfy the liens which have 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.

1942, c.68, s.26; R.S.S. 1953, c.252, s.26.

Dismissal for want of prosecution

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

1942, c.68, s.27; R.S.S. 1953, c.252, s.27.

Adding parties

28 The judge may at any stage of the proceedings on the application of any party or as he sees fit order that any person who is deemed a necessary party to 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 as to service as he deems just.

1942, c.68, s.28; R.S.S. 1953, c.252, s.28.

Judgment where lien not established

29 Where proceedings are taken to enforce a lien but no lien is found to exist judgment may be directed for any amount found due as in an ordinary case.

1942, c.68, s.29; R.S.S. 1953, c.252, s.29.

Other remedies preserved

30 Nothing in this Act disentitles 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 logs or timber.

1942, c.68, s.30; R.S.S. 1953, c.252, s.30.

Joinder of lienholders

31 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 the persons so joining or separate statements of claim may be filed and verified as by this Act provided and one attachment issued on behalf of all the persons so joining.

1942, c.68, s.31; R.S.S. 1953, c.252, s.31.

Suits in different districts

32 Where proceedings are taken in more than one district court respecting liens or claims upon the same logs or timber or lumber the proceedings after the issue of the first attachment shall be had in the district court out of which attachment first issued unless the judge otherwise orders.

1942, c.68, s.32; R.S.S. 1953, c.252, s.32.

Certificate of clerk of the court

33 Where no proceedings have been commenced to enforce a lien under this Act the clerk shall, upon request, furnish a certificate in form B.

1942, c.68, s.33; R.S.S. 1953, c.252, s.33.

Forms and procedure

34 The forms necessary to be used in proceedings under this Act, the costs to be taxed to any party therein and the procedure regulating practice shall be as nearly as may be according to the forms, tariff of costs and procedure in force in the district court, so far as the same are not inconsistent with this Act.

1942, c.68, s.34; R.S.S. 1953, c.252, s.34.

SCHEDULE

FORM A

(Section 6)

STATEMENT OF CLAIM OF LIEN

A.B., (name of claimant), of (here state residence of claimant), (if claim made as assignee then say as assignee of stating name and address of assignor) under *The Woodmen's Lien Act* claims a lien upon certain logs or timber or lumber of (here state the name and residence, if known, of the owner of the logs or timber or lumber upon which the lien is claimed) composed of (state the kind of logs or timber or lumber such as spruce, tamarack or other logs, ties, poles, posts, etc., also where situated 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 _____, 19____, and the _____ day of _____, 19____, at _____ per day (or month or quantity).

The amount claimed as due (or to become due) is the sum of _____ (when credit has been given add: The said labour was performed on credit and the period 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 foregoing 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).

.....
*Commissioner for Oaths (or as the
 case may be).*

FORM B
 (Section 33)

CERTIFICATE

In the matter of the statement of claim of lien filed on the _____ day of _____, 19____, by (*name of claimant*) of (*here state residence of claimant*) under *The Woodmen's Lien Act*, claiming a lien upon certain logs or timber or lumber of (*here state name and residence of the owner of the logs or timber or lumber as set forth in the statement of claim of lien*):

I certify that no proceedings have been commenced in the District Court of the Judicial District of _____, for enforcement of the said lien.

Dated at _____ in the Province of Saskatchewan, this _____ day of _____, 19____.

.....
*Clerk of the District Court of the
 Judicial District of _____.*

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