



Province of Alberta

WOODMEN'S LIEN ACT

Revised Statutes of Alberta 2000
Chapter W-14

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Alberta Queen's Printer
7th Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Woodmen's Lien Act* that are filed as Alberta Regulations under the Regulations Act.

	Alta. Reg.	<i>Amendments</i>
Woodmen's Lien Act		
Forms	266/99	354/2003, 138/2010, 182/2016

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Chapter W-14

Table of Contents

1	Definitions
	Payments Under Timber Contracts
2	Payments under timber contracts
3	Production of receipted payroll
4	Retention of sums due to worker
	Nature, Contents and Filing of Lien
5	Lien on logs or timber
6	Waiver of lien
7	Lien remaining charge on logs
8	Statement of claim
9	Filing statement of claim
	Enforcement of Lien
10	Enforcement of lien
11	Disposal of cases
12	Application to set aside attachment, etc.
13	Issue of attachment
14	Second seizure
15	Service of writ of attachment
16	Order allowing owner, etc. to defend
17	Logs in transit by water
18	Restoration on execution of bond
19	Notice of dispute
20	Judgment by default
21	Payment into court
22	Hearing parties, taking accounts, etc.
23	Judge's report and order for payment
24	Sale

- 25 Judgment and execution for unpaid balance
- 26 Discharge of liens where claims unfounded
- 27 Disposition of balance of money paid into court
- 28 Dismissal for want of prosecution
- 29 Adding parties
- 30 Saving of other remedies
- 31 Lienholders may join in taking proceedings
- 32 Practice and procedure
- 33 Regulations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “judge” means a judge of the Court of Queen’s Bench;
- (b) “labour” and “services” include
 - (i) cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber,
 - (ii) any work done by any persons employed in any capacity in any lumbering or timber operations or in or about any timber limit or mill where lumber of any description is processed,
 - (iii) any work done by cooks, blacksmiths, artisans and others usually employed in connection with the operations referred to in subclauses (i) and (ii), whether performed by wage-earners or others, and
 - (iv) also the supply of articles of food to any person entering into a contract as set out in section 3 while engaged in the performing of the contract;
- (c) “logs” and “timber” include logs, timber, poles, ties, bolts, staves, posts, tanbark, wood and lumber.

RSA 1980 cW-14 s1

Payments Under Timber Contracts

Payments under timber contracts

2(1) Every person entering into a contract, engagement or agreement with any other person for the purpose of furnishing,

supplying or obtaining logs or timber, by which it is requisite or necessary to engage and employ workers and labourers in the furnishing, supplying and obtaining of the logs or timber shall, before making any payment under or in respect of the contract, engagement or agreement, of any sum of money, or in kind, require the person to whom payment is to be made to produce and furnish a payroll of the wages and amounts due and owing and of the payment of them, or if no payment has been made, the amount of wages or pay due and owing to all the workers or labourers employed or engaged on or under the contract, engagement or agreement, at the time when the logs or timber are delivered or taken in charge for or by or on behalf of the persons so making payment and receiving the logs or timber.

(2) The payroll may be in the prescribed form.

RSA 1980 cW-14 s2

Production of receipted payroll

3 Any person making any payment under a contract, engagement or agreement without requiring the production of the payroll as mentioned in section 2 is liable at the suit of any worker or labourer so engaged under the contract, engagement or agreement for the amount of wages or pay due and owing to the worker or labourer under the contract, engagement or agreement.

RSA 1980 cW-14 s3

Retention of sums due to worker

4 The person to whom the payroll is given shall, for the use of the labourers or workers whose names are set out in the payroll, retain the sums that are set out opposite their respective names and that have not been paid, and the receipt or receipts of those labourers or workers is sufficient discharge for them.

RSA 1980 cW-14 s4

Nature, Contents and Filing of Lien

Lien on logs or timber

5(1) In this section, "person" includes clerks, timekeepers, storekeepers, cooks, blacksmiths, artisans and all others usually employed in connection with the labour or services.

(2) Any person performing any labour or services in connection with any logs or timber within Alberta, other than lumber, has, for the amount due to the person for that labour, or services, a lien on

- (a) any logs or timber in respect of which the labour or services were rendered,

- (b) any other logs that belong to the same owner and that have been mixed with any of the logs or timber in respect of which the labour or services were rendered, and
- (c) any lumber made out of any of those logs or timber, so long as the lumber has not been sold to and fully paid for by a bona fide purchaser for value without notice of the lien.

(3) Notwithstanding subsection (2)(c), if the lumber is in the possession of a bona fide purchaser for value who purchased without notice of the lien, the lien created by subsection (2) shall not exceed the amount unpaid for the lumber by the purchaser at the date the purchaser received notice of the lien.

(4) The lien is a first lien or charge on the logs, timber and lumber and has precedence over all other claims or liens on them, except only claims of the Crown for dues or charges.

RSA 1980 cW-14 s5

Waiver of lien

6 Any provision in a contract or agreement purporting to deprive any person of the lien under section 5 is void.

RSA 1980 cW-14 s6

Lien remaining charge on logs

7(1) The lien provided for in section 5 does not remain a charge on the logs, timber or lumber, unless

- (a) a statement of it in writing, verified on oath by the person claiming the lien or someone authorized on the person's behalf and bearing endorsed on it the name and address of the claimant or the claimant's solicitor, is with the clerk of the Court at the judicial centre closest to the place where the labour or services or some part of the labour or services have been performed, and
- (b) a copy of the statement is served on the person alleged to be liable for the payment of the claim, and if that person is not the owner of the logs, timber or lumber, then a copy of the statement is also served on the owner of the logs, timber or lumber or on the agent or persons in whose possession, custody or control they may be found.

(2) When the labour or services have been performed on any logs or timber taken out to be run down, or run down, any of the rivers or streams within or partly within Alberta, the statement may, at the option of the claimant, be filed with the clerk of the Court at the

judicial centre closest to the place where the drive terminates or reaches its destination.

RSA 2000 cW-14 s7;2009 c53 s188

Statement of claim

8 The statement 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 all legal set-offs or counterclaims, and a description of the logs, timber or lumber on or against which the lien is claimed, and may be in the prescribed form.

RSA 1980 cW-14 s8

Filing statement of claim

9(1) If the labour or services are performed between October 1 and the following June 1, the statement of claim shall be filed on or before June 30, but if the labour or services are done or performed on or after June 1 and before October 1 in any year, then the statement shall be filed within 30 days after the last day the labour or services were performed.

(2) A mortgage, sale or transfer of the logs, timber or lumber on which a lien exists under this Act made

- (a) during the time limited for the filing of the statement of claim and previous to its filing, or
- (b) after its filing and during the time limited for the enforcement of it,

in no way affects the lien, but the lien remains and is in force against the logs, timber or lumber, no matter in whose possession they are found.

RSA 1980 cW-14 s9

Enforcement of Lien

Enforcement of lien

10(1) Any person having a lien on or against any logs, timber or lumber under this Act may enforce it by the regular practice and procedure of the Court of Queen's Bench in the district within which the logs, timber or lumber, or any part of them, may be situated at the time of the commencement of the suit.

(2) The suit may be commenced to enforce the lien immediately after the filing of the statement, if the amount of the lien is due, or, if credit has been given, immediately after the expiry of the period of credit.

(3) The lien ceases to be a lien on the property named in the statement, unless proceedings to enforce it are commenced within 30 days after the filing of the statement of claim or within 30 days after the expiry of the period of credit, as the case may be.

(4) In the suit, the person liable for the payment of the debt or claim shall be made a party defendant.

RSA 1980 cW-14 s10

Disposal of cases

11 In any proceeding whether commenced by service of statement of claim or otherwise, a judge may order that it be disposed of in chambers, on any terms as to notice and otherwise as the order provides, and the proceeding may be so heard and disposed of.

RSA 2000 cW-14 s11;2009 c53 s188

Application to set aside attachment, etc.

12 The judge may also entertain in chambers an application to set aside an attachment or seizure or to release logs or timber that have been seized.

RSA 2000 cW-14 s12;2009 c53 s188

Issue of attachment

13 When the amount of any claim filed is not less than \$10, on the production and filing of a copy of the claim and affidavit, and of an affidavit made and sworn by the claimant as to the correctness of the amount of the claim due and owing, and showing that it has been filed in accordance with this Act, and stating

- (a) that the claimant has good reason to believe and does believe that
 - (i) the logs, timber or lumber on which the claimant claims a lien are about to be removed from Alberta,
 - (ii) the person indebted for the amount of the lien has absconded from Alberta with intent to defraud or defeat the person's creditors, or
 - (iii) the logs, timber or lumber on which the claimant claims a lien are about to be disposed of or dealt with in such a way that they cannot be identified,

and

- (b) that the claimant is in danger of losing the claim if an attachment does not issue,

and if an affidavit corroborating the affidavit of the plaintiff in respect of clause (a)(i), (ii) or (iii) is also filed, then the clerk of the Court within whose jurisdiction the logs, timber or lumber are, shall issue a writ of attachment, directed to a civil enforcement agency, directing the civil enforcement agency to attach, seize, take and safely keep the logs, timber or lumber or a sufficient portion of them to secure the sum mentioned in the writ and the costs of the suit and of the proceedings to enforce the lien, and to return the writ forthwith to the Court.

RSA 1980 cW-14 s13;1994 cC-10.5 s162

Second seizure

14 If additional claims are made or the amount of a claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under writ proceedings or attachment.

RSA 1980 cW-14 s14;1994 cC-10.5 s162

Service of writ of attachment

15(1) The writ of attachment shall also, when no statement of claim has issued, summon the defendant to enter an appearance in the Court, and a copy of the writ of attachment shall be served on the defendant.

(2) If the defendant in the attachment is not the owner of the logs, timber or lumber described in the writ of attachment, then a copy of the writ shall also be served on the owner of the logs, timber or lumber, or on the agent or person in whose possession, custody or control they may be found on behalf of the owner.

(3) The owner may on the owner's application or by direction of a judge be made a party defendant at the trial.

RSA 1980 cW-14 s15

Order allowing owner, etc. to defend

16 When the service has not been personal on either the defendant or owner, and when a proper defence has not been filed, a judge may in the judge's discretion admit them or either of them to make full defence and may make any order as to service and otherwise in the premises that is reasonable and just to all parties.

RSA 1980 cW-14 s16

Logs in transit by water

17 A civil enforcement agency shall not seize or detain any logs or timber under this Act when in transit by water from the place where they were cut to the place of destination.

RSA 1980 cW-14 s17;1994 cC-10.5 s162

Restoration on execution of bond

18 In case of an attachment, if the owner of the logs, timber or lumber, or any other person on the owner's behalf, executes and files with the clerk of the Court a good and sufficient bond to the person claiming the lien, executed by 2 sureties and approved by the clerk and conditioned for the payment of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in the proceedings, together with the amount for which a lien is claimed in any other suit, if any, the clerk shall issue an order to the civil enforcement agency having in charge the logs, timber or lumber directing their release and on service of the order, it shall release them.

RSA 1980 cW-14 s18;1994 cC-10.5 s162

Notice of dispute

19 A person who has been served with a copy of the writ of attachment under this Act, and who desires to dispute it, shall, within 10 days after the service, file in the Court a statement of defence.

RSA 1980 cW-14 s19

Judgment by default

20 If no statement of defence is filed under section 19, judgment may be entered as in the case of default, and the practice or procedure may be the same as in a suit begun by statement of claim.

RSA 1980 cW-14 s20

Payment into court

21(1) The defendant may, at any time after service of the writ of attachment and before the sale of the logs, timber or lumber, pay into Court the amount for which a lien is claimed in the suit, together with the amount for which a lien is claimed in any other suit, if any, and together with costs of the proceedings in the suits to the date of the payment assessed by an assessment officer of the Court if so required.

(2) The person making the payment is entitled on making the payment to a certificate vacating the lien.

(3) On the certificate vacating the lien being filed with the clerk of the Court,

- (a) the lien is vacated and all further proceedings on it shall cease, and
- (b) the person making the payment is further entitled to an order directing the delivery up of the logs, timber or

lumber seized under the attachment and the cancellation of any bond given under this Act.

RSA 2000 cW-14 s21;2009 c53 s188

Hearing parties, taking accounts, etc.

22 In any case commenced by writ of attachment, after the expiration of the time within which a statement of defence may be filed, if a statement of defence has been filed, the judge shall, in chambers as provided by section 11, or at the next sitting of the Court after due notice has been given to all parties to the suit and to all persons claiming liens on the logs, timber or lumber and whose liens are filed, or to their solicitors, hear all those 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 fix or cause to be assessed by an assessment officer their costs and determine by whom they are payable and settle their priorities and generally determine all matters that may be necessary for the adjustment of the rights of the several parties.

RSA 2000 cW-14 s22;2009 c53 s188

Judge's report and order for payment

23 At the conclusion of the inquiry the judge shall make a report and order, which shall state the judge's findings and direct the payment into Court of the amounts, if any, found due, and costs, within 8 days after the order, and, in default of payment that the logs, timber or lumber be sold by the civil enforcement agency for the satisfaction of the amounts found due to the several parties on the inquiry, and costs.

RSA 1980 cW-14 s23;1994 cC-10.5 s162

Sale

24(1) In default of payment into Court under section 23 within the 8 days, the logs, timber or lumber shall within 20 days after the default be sold by the civil enforcement agency, in the same manner and subject to the same law as goods and chattels seized or taken in writ proceedings, unless the judge directs that additional publicity be given to the sale.

(2) The amount realized by the sale shall, after deducting the expenses of it payable to the civil enforcement agency, be paid into Court and shall on the application of the several parties found to be entitled to it under the order of a judge, be paid out to them by the clerk of the Court.

(3) If the amount realized on the sale is not sufficient to pay the claims in full and costs, the judge shall apportion the amount realized on a prorated basis among the different claimants.

RSA 1980 cW-14 s24;1994 cC-10.5 s162

Judgment and execution for unpaid balance

25(1) If, after the sale and distribution of the proceeds of it under section 24, any balance remains due to any person under the order of the judge, the clerk of the Court shall on the application of that person give to the person a certificate that the amount remains due.

(2) The certificate may be entered as a judgment in the Court, against the person by whom the claim was directed to be paid, and a writ of enforcement may be issued on it as in the case of other judgments.

RSA 1980 cW-14 s25;1994 cC-10.5 s162

Discharge of liens where claims unfounded

26 When nothing is found due on the several claims filed under this Act or on the lien or liens in respect of which proceedings have been taken, the judge may by order direct that the lien or liens be discharged and the logs, timber or lumber released or the security given for it be delivered up and cancelled, and shall also by order direct payment forthwith of any costs that may be found due to the defendant or owner of the logs, timber or lumber.

RSA 1980 cW-14 s26

Disposition of balance of money paid into court

27 When more money is paid into Court as the proceeds of the sale of logs, timber or lumber than is required to satisfy the lien or liens that have been proven and the interest and costs, the remaining money shall be paid over to the party entitled to it unless a judge otherwise orders.

RSA 1980 cW-14 s27

Dismissal for want of prosecution

28 Any person affected by the proceedings taken under this Act may apply to a judge to dismiss the proceedings for want of prosecution, and the judge may make any order on the application as to costs or otherwise that the judge considers just.

RSA 1980 cW-14 s28

Adding parties

29 The judge may at any stage of the proceedings on the application of any party, or as the judge may see fit, order that any person who is considered a necessary party to the proceedings be

added as a party or be served with any process or notice provided for by this Act, and the judge may make any order as to the costs of adding that person or as to service that the judge considers just.

RSA 1980 cW-14 s29

Saving of other remedies

30 Nothing in this Act disentitles any person to any remedy other than that afforded by this Act for the recovery of any amount due in respect of labour or services performed on or in connection with any logs, timber or lumber, and when a suit 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.

RSA 1980 cW-14 s30

Lienholders may join in taking proceedings

31 Any number of lienholders may join whether by writ of attachment or otherwise in taking proceedings under this Act, or may assign their claims to any one or more persons, but the statement of claim shall include particular statements of the several claims of persons so joining.

RSA 1980 cW-14 s31

Practice and procedure

32 The practice and procedure of the Court of Queen's Bench apply, with all necessary modification, to proceedings under this Act.

RSA 2000 cW-14 s32;2009 c53 s188

Regulations

33 The Lieutenant Governor in Council may make regulations prescribing forms for the purposes of this Act.

RSA 1980 cW-14 s33



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