

Storage Liens Regulation 2018

Explanatory notes for SL 2018 No. 184

made under the

Storage Liens Act 1973

General Outline

Short title

Storage Liens Regulation 2018

Authorising law

Section 20 of the *Storage Liens Act 1973*

Policy objectives and the reasons for them

The main objective of the *Storage Liens Act 1973* (the Act) is to provide for particular rights and responsibilities associated with the warehousing of goods. More specifically, the Act provides the storer of goods with a lien over the goods as security for the payment of particular charges and costs relating to the storage of the goods.

The Act achieves its objectives by enabling a storer, in particular circumstances, to enforce a lien by selling goods at a public auction, subject to particular provisions designed to appropriately protect the interests of persons who may have an interest in the goods. Under the Act, a person who has an interest in the goods is able to apply to the Magistrates' Court to stop the sale.

The objective of the *Storage Liens Regulation 2018* (the Regulation) is to support the effective operation of certain provisions of the Act, which continue to be relevant to the determination of particular rights and responsibilities relating to the storage of goods.

The Regulation repeals and replaces the *Storage Liens Regulation 2008* (the expiring Regulation) which is due to expire on 31 August 2019 in accordance with the *Statutory Instruments Act 1992*.

Achievement of policy objectives

The Regulation is largely consistent with the expiring Regulation, except for a number of minor changes that reflect current drafting practices and ensure the drafting of the Regulation is consistent with the Act. Technical drafting changes have also been made because the *Uniform Civil Procedure Rules 1999* provides for relevant court-related arrangements which do not need to be duplicated in the Regulation.

The Regulation will achieve its policy objective by providing for three substantive provisions:

- Section 2 prescribes the information that a person who claims to own, own an interest in, or be entitled to a charge over particular goods must include in a notice to the storer.
- Section 3 prescribes the information that must be included in applications to the Magistrates' Court for an order to prevent a storer from enforcing a lien by selling goods at auction.
- Section 4 provides substituted service arrangements if a storer is required to give a notice to a person, but the person or their address is not known to the storer.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of the Regulation is that it provides certainty and clarity about the operation of the Act and facilitates the continuation of key provisions which complement the operation of the Act.

There are no anticipated implementation costs associated with the Regulation as it is largely consistent with the expiring Regulation.

Consistency with fundamental legislative principles

The Regulation is consistent with the fundamental legislative principles.

Consultation

The Queensland Productivity Commission (the Commission) was consulted on the proposal to make the Regulation. The Commission considered that making the Regulation is unlikely to result in significant adverse impacts and that no further regulatory analysis is required under the Queensland Government Guide to Better Regulation.

Public consultation has not been undertaken on the basis that the differences between the Regulation and the expiring Regulation are of a minor and technical nature.