

# WAREHOUSEMEN'S LIENS AMENDMENT BILL 2013

## EXPLANATORY MEMORANDUM

### Overview of the Bill

The *Warehousemen's Liens Act 1952* regulates individuals who are in the business of storing goods as a bailee for hire or reward. Under section 7, a warehouseman may sell these goods when the charges for storing and managing them become due.

Section 13 of the *Warehousemen's Liens Act 1952* confers power to the Governor to make rules and prescribe forms to administer applications made to the Magistrates Court and payments into court. This rule making power should appropriately rest with the Chief Magistrate. The Warehousemen's Liens Amendment Bill 2013 seeks to remedy that situation through the deletion of section 13. This will enable the Magistrates Court to use its powers under the *Magistrates Court (Civil Proceedings) Act 2004* to make rules and prescribe forms to administer applications under the *Warehousemen's Liens Act 1952*.

### Clause Notes

#### Clause 1. Short title

Clause 1 provides that the Bill, once enacted, will be known as the *Warehousemen's Liens Amendment Act 2013*.

#### Clause 2. Commencement

This clause provides for the commencement of the Act.

Sections 1 and 2 come into operation on the day on which the Act receives Royal Assent. The rest of the Act will come into effect on a day fixed by proclamation with the ability to nominate different dates for the different provisions in the Act.

#### Clause 3. Act amended

This clause provides that this Act will amend the *Warehousemen's Liens Act 1952*.

#### Clause 4. Section 7 amended

Section 7 (7A) gives the Magistrates Courts the power to make an order to stay proceedings where a person having interest in goods makes an application. Clause 4 deletes "in the manner prescribed" as the manner will no longer be prescribed under this Act (with the deletion of section 13 by clause 6).

#### Clause 5. Section 12 amended

Section 12 gives the Governor the power to make regulations under the Act. This clause amends section 12(g) by adding a qualification that the Governor will not determine fees paid in respect of or in connection with any matter in the jurisdiction of the Magistrates Court. Regulations for fees in respect of matters before the Magistrates Court are made under section 42 of the *Magistrates Court Act 2004*.

**Clause 6.      Section 13 deleted**

The deletion of section 13 will remove any reference to the Governor making rules, prescribing forms and payments into court for applications in the jurisdiction of the Magistrates Court. This will enable the Magistrates Court to use its rule-making powers under the *Magistrates Court (Civil Proceedings) Act 2004* to administer applications under the *Warehousemen's Liens Act 1952*.