



New South Wales

Uncollected Goods Act 1995 No 68

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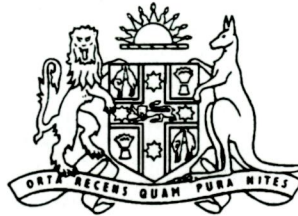
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New South Wales

Uncollected Goods Act 1995 No 68

Act No 68, 1995

An Act to provide for the disposal of uncollected goods; and to repeal the *Disposal of Uncollected Goods Act 1966*. [Assented to 12 December 1995]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Uncollected Goods Act 1995*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

3 Definitions

In this Act:

bailed goods means goods subject to bailment.

bailee and *bailor* include their respective successors.

bailment includes bailment for reward, bailment in the course of business, gratuitous bailment, involuntary bailment or any sub-bailment, but does not include anything excluded from this definition by the regulations.

dispose of includes sell or destroy.

goods means all chattels personal, other than things excluded from this definition by the regulations.

publicly registered interest in goods means an interest in the goods that is recorded in the Register of Interests in Goods under the *Registration of Interests in Goods Act 1986* or in any other register prescribed by the regulations.

relevant charges is defined in section 10 (for the purposes of Part 2) and in section 28 (for the purposes of Part 3).

uncollected goods means bailed goods that are uncollected as referred to in section 5.

4 Object of Act

- (1) The object of this Act is to provide persons in possession of uncollected goods subject to bailment (**bailees**) with means of disposing of those goods without incurring any liability to the bailor or any other person.

- (2) The means of disposal are by way of court order or after due notice to the bailor and others.

5 When goods uncollected for purposes of Act

Bailed goods are uncollected for the purposes of this Act if:

- (a) the goods are ready for delivery to the bailor in accordance with the terms of the bailment, but the bailor has failed to take delivery of the goods or, if those terms so provide, to give directions as to their delivery, or
- (b) the bailee is required to give notice to the bailor before the goods are so ready for delivery, but is unable to trace or communicate with the bailor, or
- (c) the bailee can reasonably expect to be relieved of any duty to safeguard the goods on giving notice to the bailor, but is unable to trace or communicate with the bailor.

6 When Act available for disposal of uncollected goods

- (1) This Act is available for the disposal of uncollected goods where there is no agreement between the parties on the means of their disposal. If there is such an agreement, this Act applies to any aspect of the disposal of those goods that is not dealt with in the agreement.
- (2) This Act is also available as an alternative to other statutory means of disposal of particular uncollected goods. However, it is not available as an alternative to the *Unclaimed Money Act 1982* or to any other Act or instrument prescribed by the regulations.
- (3) This section is subject to section 32.

7 No liability for due disposal of uncollected goods

A person who disposes of uncollected goods in accordance with this Act is not liable to any other person in respect of the goods merely because the person by whom the goods have been disposed of has been a bailee of the goods.

Part 2 Disposal of uncollected goods by way of court order

8 Applications to Local Court for orders for disposal of uncollected goods

- (1) A bailee may, in accordance with the regulations, apply to a Local Court for an order authorising the bailee to dispose of uncollected goods.
- (2) A copy of the application must be served on the bailor, on the owner of the goods and on each other person having or claiming an interest in the goods.
- (3) However, this section does not require a copy of the application to be served on a person (other than any person who has a publicly registered interest in the goods) if the bailee:
 - (a) is unaware of the fact that the person has or claims an interest in the goods, or
 - (b) cannot trace or communicate with the person.
- (4) An application for the disposal of a motor vehicle must be accompanied by:
 - (a) a certificate referred to in section 31 from the Commissioner of Police that the vehicle is not stolen, and
 - (b) a certificate under section 8 of the *Registration of Interests in Goods Act 1986* in relation to the vehicle.

9 Orders of Local Court

- (1) A Local Court may, on application made under this Part:
 - (a) if satisfied that the goods concerned are uncollected goods, make an order authorising the applicant to dispose of all or some only of those goods, or
 - (b) refuse to make such an order.
- (2) A Local Court may refuse to make such an order on any ground it considers appropriate, including the ground that there are more appropriate means for the disposal of those goods.

- (3) An order under this Part is to specify the following matters:
- (a) the goods to which it relates,
 - (b) the manner in which disposal of the goods is authorised,
 - (c) the date on or after which the goods may be disposed of under the order,
 - (d) the amount of the relevant charges due to the bailee in respect of the goods.

10 Relevant charges due to bailee

For the purposes of this Part, the amount of the **relevant charges** due to a bailee in respect of uncollected goods is the sum of the following amounts:

- (a) the amount agreed on between the bailor and the bailee (or, in the absence of such an agreement, such amount as is reasonable) as the charges due to the bailee for any carriage or storage of the goods or for any repairs or other work done in connection with the goods,
- (b) the amount of the costs incurred by the bailee (in respect of the period beginning with the date when the application for the order is made and ending with the date when the goods are disposed of) for any storage, maintenance or insurance of the goods,
- (c) the amount of the costs incurred by the bailee for the disposal of the goods in accordance with this Part.

11 Order may be made despite dispute about relevant charges or work done

- (1) A Local Court may make an order under this Part even though there is a dispute between the bailor and the bailee as to:
- (a) the amount of any charge made by the bailee for carriage or storage of the goods or for repairs or other work done in connection with the goods, or
 - (b) the condition of the goods or the nature or quality of any repairs or other work done in connection with the goods.

- (2) The Local Court may reduce the amount of the relevant charges due to the bailee because of the condition of the goods or the nature or quality of any repairs or other work done in connection with the goods.

12 Effect of orders of Local Court

- (1) An order under this Part authorises the goods to which it relates to be disposed of in accordance with the terms of the order.
- (2) However, a person who has an interest in the goods is entitled, on payment to the bailee of the relevant charges due to the bailee in respect of the goods, to delivery of the goods at any time before they are disposed of.

13 Effect of other proceedings on orders of Local Court

- (1) If, at any time before they are disposed of under this Part, a person commences an action for the recovery of the goods, the order under this Part is suspended until the action is finally disposed of.
- (2) If, as a result of such an action, an order is made for the recovery of the goods, the order under this Part ceases to have effect.

14 Proceeds of sale

- (1) From the proceeds of sale of goods under this Part, the bailee is entitled to retain the relevant charges due to the bailee in respect of the goods.
- (2) The balance (if any) of the proceeds of sale are to be dealt with as if the bailee were a business and the money were unclaimed money for the purposes of the *Unclaimed Money Act 1982*.
- (3) If the proceeds of sale are insufficient to pay the relevant charges due to the bailee in respect of the goods, the bailee may recover the amount of the deficiency from the bailor, as a debt, in any court of competent jurisdiction.

15 Records

- (1) Within 7 days after disposing of goods in accordance with this Part, a bailee must prepare a record of the following particulars:

- (a) a description of the goods disposed of,
 - (b) the date of the order under this Part by which disposal of the goods was authorised,
 - (c) the date on which the goods were disposed of,
 - (d) the manner in which the goods were disposed of,
 - (e) in the case of goods that have been sold:
 - the name and address of the person to whom they were sold, and
 - the amount of the proceeds of the sale, and
 - the amount retained by the bailee to cover the relevant charges due to the bailee in respect of the goods,
 - (f) in the case of goods sold by public auction—the name, and the address of the principal place of business, of the auctioneer by whom the goods were sold.
- (2) A record prepared under this section must be kept by the bailee for at least 6 years from the date on which the goods were disposed of and must be made available by the bailee, on request, for inspection by the bailor or by any other person claiming an interest in the goods.

Maximum penalty: 5 penalty units.

16 Bailors may recover excess charges

The Local Court by which an order under this Part is made may, on the application of the bailor, give judgment for the bailor against the bailee for any amount paid by the bailor to the bailee (in respect of the bailee's charges for carriage or storage of the goods or for repairs or other work done in connection with the goods) in excess of the relevant charges.

17 Exercise of jurisdiction by Local Court

- (1) The jurisdiction conferred on a Local Court by this Part is to be exercised by a Magistrate sitting alone.

- (2) A Local Court may not exercise the jurisdiction conferred by this Part if the value of the uncollected goods exceeds the amount of the limit of the Court's jurisdiction in an action for the recovery of a debt under the *Local Courts (Civil Claims) Act 1970*.
- (3) The provisions of the *Local Courts (Civil Claims) Act 1970* relating to appeals to the Supreme Court apply to the exercise of the Local Court's jurisdiction under this Act.

18 Exercise of jurisdiction by Supreme Court

- (1) The jurisdiction conferred on a Local Court by this Part may be exercised by the Supreme Court, but only with the leave of the Supreme Court.
- (2) The Supreme Court may exercise that jurisdiction even though the value of the uncollected goods exceeds the jurisdictional limit of a Local Court.
- (3) When deciding whether to grant leave, the Supreme Court may have regard to the value of the uncollected goods, the complexity of the legal issues involved, any related issues for which a Local Court does not have jurisdiction and any other relevant matter.
- (4) For the purpose of this section:
 - (a) a reference in this Act (except section 17) to a Local Court is to be read as including a reference to the Supreme Court, and
 - (b) a reference in section 8 to the regulations is to be read as including a reference to the rules of court.

Part 3 Disposal of uncollected goods after due notice to bailor

19 Application of Part

This Part applies to uncollected goods, other than:

- (a) goods whose value is \$5,000 or more, or
- (b) goods in respect of which a dispute exists between the bailor and the bailee as to:
 - the amount of any charge made by the bailee for the carriage or storage of the goods or for repairs or other work done in connection with the goods, or
 - the condition of the goods or the nature or quality of any repairs or other work done in connection with the goods.

20 Goods of up to \$100 in value

- (1) A bailee may dispose of uncollected goods whose value is less than \$100 if the bailor:
 - (a) has been given oral or written notice of the bailee's intention to dispose of the goods, and
 - (b) has been given at least 28 days, from the date when notice was given, within which to collect the goods.
- (2) Uncollected goods may be disposed of under this section in such manner as the bailee considers appropriate.

21 Goods of between \$100 and \$500 in value

- (1) A bailee may dispose of uncollected goods whose value is less than \$500 (but not less than \$100), if the bailor, the owner of the goods and each person having or claiming an interest in the goods:
 - (a) have been given written notice of the bailee's intention to dispose of the goods, and
 - (b) have been given at least 3 months, from the date when notice was given, within which to collect the goods.

- (2) Uncollected goods may not be disposed of under this section otherwise than by way of public auction or by private sale for a fair value.

22 Goods of between \$500 and \$5,000 in value

- (1) A bailee may dispose of uncollected goods whose value is less than \$5,000 (but not less than \$500), if the bailor, the owner of the goods and each person having or claiming an interest in the goods:
- (a) have been given written notice of the bailee's intention to dispose of the goods, and
 - (b) have been given at least 6 months, from the date when notice was given, within which to collect the goods, and if a copy of the notice has, at least 28 days before the goods are disposed of, been published in a daily newspaper circulating generally throughout New South Wales.
- (2) Uncollected goods may not be disposed of under this section otherwise than by way of public auction.

23 Sections 19–22—variation of monetary limits

The regulations may vary the monetary limits referred to in sections 19–22.

24 Perishable goods

- (1) Nothing in this Part prevents a bailee from disposing of perishable uncollected goods (that is, goods that have perished or are in imminent danger of perishing) if the bailor and the owner of the goods:
- (a) have been given oral or written notice of the bailee's intention to dispose of the goods, and
 - (b) have been given a reasonable opportunity, having regard to the nature and condition of the goods, to collect the goods.
- (2) Goods may be disposed of under this section in such manner as the bailee considers appropriate.

25 Persons to whom notices not required to be given

Nothing in this Part requires notice to be given to a person (other than the bailor and any person who has a publicly registered interest in the goods) if the bailee:

- (a) is unaware of the fact that the person has or claims an interest in the goods, or
- (b) cannot trace or communicate with the person.

26 Form of notices

Notice under this Part must include:

- (a) the bailee's name, and
- (b) a description of the goods, and
- (c) an address where the goods may be collected, and
- (d) a statement of the relevant charges due to the bailee in respect of the goods, and
- (e) a statement to the effect that, on or after a specified date, the goods will be disposed of unless they are first collected and the relevant charges are paid, and
- (f) if applicable, a statement to the effect that the person will retain, out of the proceeds of sale of the goods, an amount not exceeding the relevant charges.

27 Service of notices

Any notice under this Part may be given to or served on the person personally or by means of a letter addressed to the person and left at, or sent by post to, the person's last known address.

28 Relevant charges due to bailee

For the purposes of this Part, the amount of the **relevant charges** due to a bailee in respect of uncollected goods is the sum of the following amounts:

- (a) the amount agreed on between the bailor and the bailee (or, in the absence of such an agreement, such amount as is reasonable) as the charges due to the bailee for any carriage or storage of the goods or for any repairs or other work done in connection with the goods,
- (b) the amount of the costs incurred by the bailee (in respect of the period beginning with the date when the notice about the disposal of the goods was given to the bailor and ending with the date when the goods are disposed of) for any storage, maintenance or insurance of the goods,

- (c) the amount of the costs incurred by the bailee for the disposal of the goods in accordance with this Part.

29 Proceeds of sale

- (1) From the proceeds of sale of goods under this Part, the bailee is entitled to retain the relevant charges due to the bailee in respect of the goods.
- (2) The balance (if any) of the proceeds of sale are to be dealt with as if the bailee were a business and the money were unclaimed money for the purposes of the *Unclaimed Money Act 1982*.
- (3) If the proceeds of sale are insufficient to pay the relevant charges due to the bailee in respect of the goods, the bailee may recover the amount of the deficiency from the bailor, as a debt, in any court of competent jurisdiction.

30 Records

- (1) Within 7 days after disposing of goods in accordance with this Part, a bailee must prepare a record of the following particulars:
 - (a) a description of the goods disposed of,
 - (b) the date on which the goods were disposed of,
 - (c) the manner in which the goods were disposed of,
 - (d) in the case of goods that have been sold:
 - the name and address of the person to whom they were sold, and
 - the amount of the proceeds of the sale, and
 - the amount retained by the bailee to cover the relevant charges due to the bailee in respect of the goods,
 - (e) in the case of goods sold by public auction—the name, and the address of the principal place of business, of the auctioneer by whom the goods were sold.
- (2) A record prepared under this section must be kept by the bailee for at least 6 years from the date on which the goods were disposed of and must be made available by the bailee, on request, for inspection by the bailor or by any other person claiming an interest in the goods.

Maximum penalty: 5 penalty units.

31 Sale of uncollected motor vehicles

- (1) A person must not sell a motor vehicle under this Part unless the Commissioner of Police has issued the person with a certificate to the effect that the motor vehicle is not for the time being recorded as being stolen.

Maximum penalty: 5 penalty units.

- (2) An application for such a certificate:
- (a) must specify the make, model, type, colour, registration number (if any), chassis number (if any) and engine number (if any) of the motor vehicle, and
 - (b) must be served on the Commissioner of Police at least 28 days before the motor vehicle is to be sold.

Part 4 Miscellaneous

32 Minimum period within which certain commercial bailees may dispose of uncollected goods by agreement

- (1) This section applies to uncollected goods:
 - (a) which the bailee accepted for carriage or storage or for repairs or other work, and
 - (b) which were accepted in the course of a business prescribed by the regulations, and
 - (c) whose value exceeds \$100 or such other amount as may be prescribed by the regulations.
- (2) A provision of an agreement between a bailor and bailee which authorises the bailee to dispose of uncollected goods to which this section applies is void if the provision gives the bailor less than 3 months to collect the goods after the goods are ready for delivery to the bailor.

33 Common law

The common law relating to the bailment of goods remains in force to the extent to which it is not affected by this Act and a person is entitled to exercise any rights that the person may have at common law in relation to the recovery of goods or compensation for the loss of or damage to goods except to the extent to which this Act otherwise provides (for example, section 7).

34 Purchasers acquire good title

The purchaser of any goods sold under this Act acquires a good title to the goods, free from any interest that may have existed in the goods in favour of some other person before the goods were sold, if the purchaser buys them:

- (a) without notice of any failure by the bailee to comply with the provisions of this Act, and
- (b) without notice of any defect or want of title in the bailor.

35 Burden of proof

In any proceedings by or against a person in respect of goods that the person claims have been disposed of in accordance with the provisions of this Act, the burden of proving that the goods have been so disposed of rests on that person.

36 Act binds Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

37 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

38 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to:
 - (a) the keeping of records under this Act, and
 - (b) the valuation of goods for the purposes of this Act.
- (3) The regulations may create offences punishable by a penalty not exceeding 10 penalty units.

39 Repeal of Disposal of Uncollected Goods Act 1966 No 57

The *Disposal of Uncollected Goods Act 1966* is repealed.

40 Savings, transitional and other provisions

Schedule 1 has effect.

41 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings, transitional and other provisions

(Section 40)

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than its date of publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on the enactment of this Act

2 Definitions

In this Part:

appointed day means the day appointed under section 2 for the commencement of this Act.

repealed Act means the *Disposal of Uncollected Goods Act 1966*.

3 Act extends to existing bailments

This Act extends to bailments in existence on the appointed day, except as otherwise provided by this Schedule.

4 Disposal of uncollected goods without court order

- (1) Part 2 of the repealed Act continues to apply to goods in respect of which the bailee had, before the appointed day, given notice of intention to sell the goods in accordance with section 6 (1) (c) of that Act.
- (2) Sections 29 and 30 of this Act apply to goods sold pursuant to Part 2 of the repealed Act (as continued by subclause (1)) as if those goods had been sold pursuant to Part 3 of this Act.
- (3) Any records kept under section 7 of the repealed Act are taken to be records kept under section 30 of this Act.

5 Disputes

Section 6 (4) of the repealed Act continues to apply to an application for an order under that subsection that had been made, but not determined, before the appointed day.

6 Disposal of goods with court order

- (1) Part 3 of the repealed Act continues to apply to goods in respect of which an application under section 12 of that Act had been made, but not determined, before the appointed day.
- (2) Sections 14 and 15 of this Act apply to goods sold pursuant to Part 3 of the repealed Act (as continued by subclause (1)) as if those goods had been sold pursuant to Part 2 of this Act.
- (3) Any records kept under section 13 of the repealed Act are taken to be records kept under section 15 of this Act.

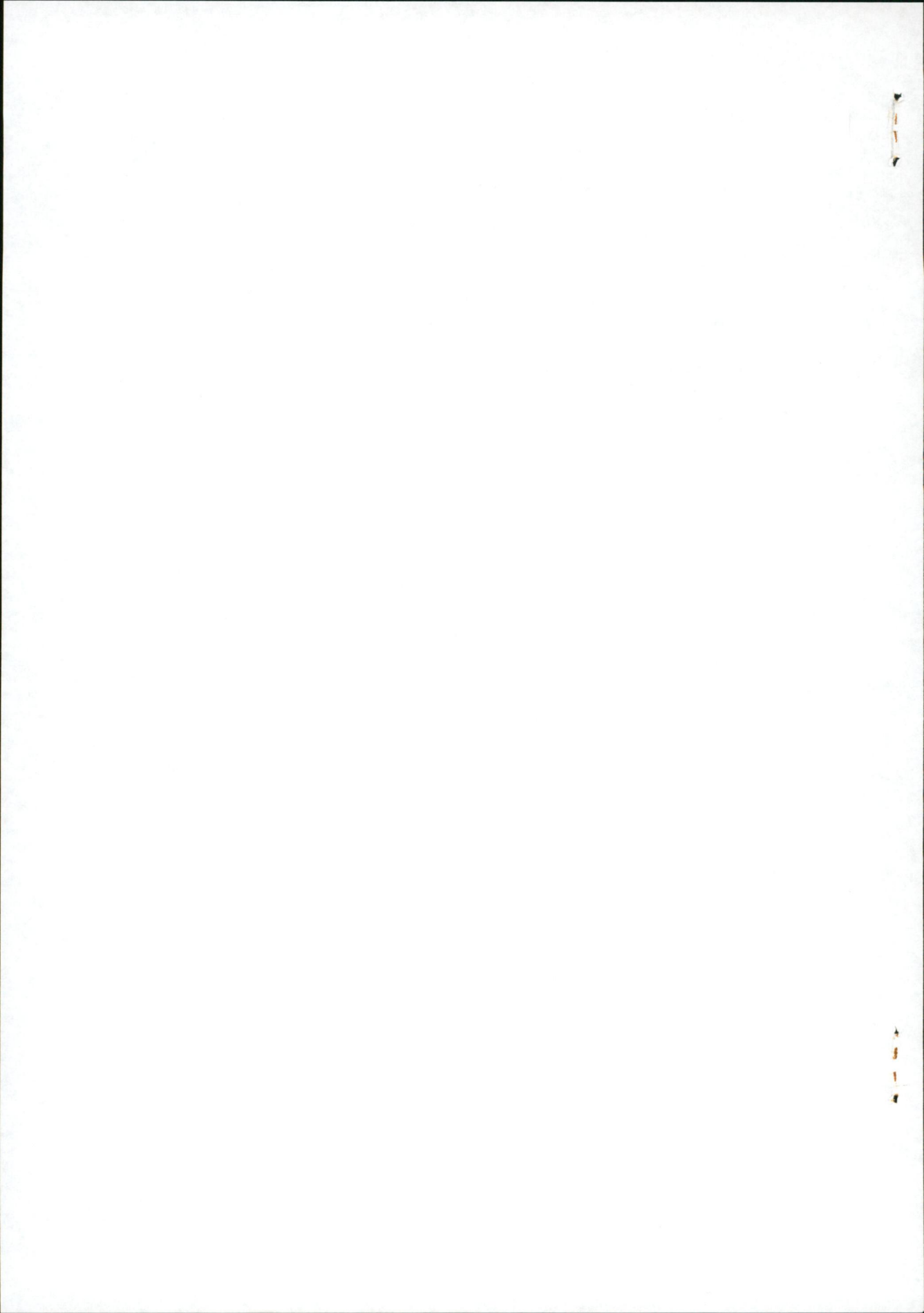
7 Minimum period for disposal by certain commercial bailees

Section 32 of this Act does not apply to uncollected goods of a kind to which that section applies if the goods were bailed before the day on which that section was applied to goods of that kind.

8 Purchasers acquire good title etc

Sections 34 and 35 of this Act apply to goods disposed of under the repealed Act (whether by virtue of this Schedule or otherwise) as if those goods had been disposed of under this Act.

[Minister's second reading speech made in—
Legislative Council on 21 September 1995
Legislative Assembly on 12 October 1995]



First print



New South Wales

Uncollected Goods Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The disposal of uncollected goods is governed partly by common law and partly by legislation. A significant piece of legislation on the subject is the *Disposal of Uncollected Goods Act 1966*. That Act deals, broadly speaking, with situations where a bailee (having a lien in respect of an unpaid debt concerning goods in his or her possession) is unable to persuade the bailor to pay the debt or to collect the goods. The New South Wales Law Reform Commission, in its report entitled *Disposal of Uncollected Goods* (LRC 54—1988), has recommended that the Act be amended so as to allow the remedies under the Act to be extended to apply to all bailees and other persons in possession of goods and so as to vary the stringency of the notice requirements of the Act according to the value of the goods concerned.

The object of this Bill is to repeal and re-enact the provisions of the *Disposal of Uncollected Goods Act 1966* in the light of the recommendations of the Law Reform Commission.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day to be proclaimed.

Clause 3 defines certain expressions (including *bailed goods*, *bailee*, *bailor*, *goods* and *publicly registered interest*) for the purposes of the proposed Act.

Clause 4 specifies that the object of the proposed Act is to provide persons in possession of uncollected goods subject to bailment with the means of disposing of those goods without incurring any liability to the bailor or any other person. The means of disposal are by way of court order or after due notice to the bailor and certain other persons.

Clause 5 defines *uncollected goods* for the purposes of the proposed Act. Goods are uncollected if they are ready for delivery but not collected or if the bailee cannot trace or communicate with the bailor to collect the goods. The definition is similar to the definition in the corresponding U.K. legislation, the *Torts (Interference with Goods) Act 1977*.

Clause 6 specifies that the proposed Act does not apply if there is an agreement between the parties about the relevant matter concerning the disposal of the goods. However, clause 32 applies despite any agreement to the contrary. The proposed Act applies in addition to other statutory methods of disposal.

Clause 7 provides that a person who disposes of uncollected bailed goods in accordance with the proposed Act is not liable to any other person merely because he or she has been a bailee of the goods.

Part 2 Disposal of Uncollected Goods by way of court order

Clause 8 enables a bailee to apply to a Local Court for an order authorising the disposal of uncollected goods.

Clause 9 empowers (but does not require) a Local Court to make an order authorising the disposal of the uncollected goods. Such an order (if made) must specify, among other things, the relevant charges due to the bailee in respect of the goods.

Clause 10 defines *relevant charges* for the purposes of the proposed Part. Relevant charges will include amounts for the carriage or storage of goods or for repairs or other work done in connection with goods, for costs incurred by a bailee for the storage, maintenance or insurance of goods and for costs incurred by a bailee for the disposal of goods in accordance with the proposed Part.

Clause 11 enables a Local Court to authorise the disposal of uncollected goods even though there is a dispute between the bailor and the bailee as to the amount owed or as to the condition of the goods or the nature or quality of repairs or other work done in connection with the goods.

Clause 12 provides that goods to which an order under the proposed Part relates may be disposed of in accordance with the order, but provides that the goods may be redeemed (on payment of the relevant charges) at any time before they are disposed of.

Clause 13 suspends the operation of an order under the proposed Part in circumstances where other legal proceedings are taken for the recovery of the goods to which the order relates. If any such proceedings are successful, the order ceases to have effect.

Clause 14 entitles a bailee to retain from the proceeds of sale of goods under the proposed Part the relevant charges due to the bailee in respect of the goods, and provides that the remainder of the proceeds are to be dealt with as if they were unclaimed money under the *Unclaimed Money Act 1982*. The clause preserves the right of the bailee to recover the amount of any deficiency from the bailor as a debt.

Clause 15 requires a bailee to prepare a record in relation to goods disposed of under the proposed Part and to keep the record for at least 6 years, and further provides that the bailee must make the record available, on request, for inspection by the bailor or by any other person claiming an interest in the goods.

Clause 16 enables the bailor to obtain judgment against the bailee for the amount by which any money paid by the bailor to the bailee in connection with the goods exceeds the relevant charges determined by the Local Court.

Clause 17 requires the jurisdiction conferred on a Local Court by the proposed Part to be exercised by a Magistrate. However, the Local Court is denied jurisdiction if the value of the goods concerned exceeds the Court's civil jurisdiction under the *Local Courts (Civil Claims) Act 1970*. The clause also ensures that the usual appeal process for Local Court civil claims jurisdiction applies.

Clause 18 enables the jurisdiction of a Local Court under the proposed Part to be exercised by the Supreme Court (with leave) even though the value of the goods concerned exceeds the jurisdictional limit of a Local Court.

Part 3 Disposal of uncollected goods after due notice to bailor

Clause 19 applies the proposed Part to uncollected bailed goods whose value is less than \$5,000. The proposed Part is not to apply to goods in respect of which there is a dispute between the bailor and the bailee as to the amount owed or as to the condition of the goods or the nature or quality of repairs or other work done in connection with the goods.

Clause 20 enables a bailee to dispose of uncollected goods of up to \$100 in value, in whatever manner the bailee considers appropriate, after the bailor has been notified, orally or in writing, of the bailee's intention to dispose of the goods and has been given at least 28 days in which to collect them.

Clause 21 enables a bailee to dispose of uncollected goods of between \$100 and \$500 in value, by public auction or private sale only, if the owner of the goods and each person having or claiming an interest in the goods have been notified, in writing, of the bailee's intention to dispose of the goods and been given at least 3 months in which to collect them.

Clause 22 enables a bailee to dispose of uncollected goods of between \$500 and \$5,000 in value, by public auction only, if the owner of the goods and each person having or claiming an interest in the goods have been notified, in writing, of the bailee's intention to dispose of the goods and been given at least 6 months in which to collect them, and if a copy of the notice has been published in a daily newspaper at least 28 days before the goods are disposed of.

Clause 23 authorises the variation by regulation of the monetary limits referred to in clauses 19–22.

Clause 24 enables a bailee to dispose of uncollected perishable goods, in whatever manner the bailee considers appropriate, after the bailor has been notified, orally or in writing, of the bailee's intention to dispose of the goods and has been given a reasonable opportunity to collect the goods.

Clause 25 provides that there is no requirement to give a notice of intention to dispose of uncollected goods to a person (other than the bailor or a person who has a publicly registered interest in the goods) if the bailee is unaware of the fact that the person has or claims an interest in the goods or cannot trace or communicate with the person.

Clause 26 specifies the matters that must be included in a notice of intention to dispose of uncollected goods.

Clause 27 provides that a notice under the proposed Part may be served personally or by post.

Clause 28 defines *relevant charges* for the purposes of the proposed Part. Relevant charges will include amounts for the carriage or storage of goods or for repairs or other work done in connection with goods, for costs incurred by a bailee for the storage, maintenance or insurance of goods and for costs incurred by a bailee for the disposal of goods in accordance with the proposed Act.

Clause 29 entitles a bailee to retain from the proceeds of sale of goods under the proposed Part the relevant charges due to the bailee in respect of the goods, and provides that the remainder of the proceeds are to be dealt with as if they were unclaimed money under the *Unclaimed Money Act 1982*. The clause preserves the right of the bailee to recover the amount of any deficiency from the bailor as a debt.

Clause 30 requires a bailee to prepare a record in relation to goods disposed of under the proposed Part and to keep the record for at least 6 years, and further provides that the bailee must make the record available, on request, for inspection by the bailor or by any other person claiming an interest in the goods.

Clause 31 prohibits the sale of a motor vehicle under the proposed Part unless the seller obtains a certificate from the Commissioner of Police to the effect that the motor vehicle is not for the time being recorded as being stolen.

Part 4 Miscellaneous

Clause 32 specifies a minimum period of 3 months within which certain commercial bailees may, by agreement with the bailor, dispose of uncollected goods.

Clause 33 preserves the operation of the common law in relation to the bailment of goods except to the extent that it is modified by the proposed Act.

Clause 34 provides that the purchaser of any goods sold under the proposed Act acquires a good title to the goods, free of any other interest, if the goods are bought without notice of any failure by the bailee to comply with the provisions of the proposed Act or of any defect or want of title in the bailor.

Clause 35 provides that the burden of establishing that the provisions of the proposed Act have been complied with in relation to the disposal of goods lies on the person who asserts that fact.

Clause 36 provides that the proposed Act is to bind the Crown.

Clause 37 provides that proceedings for an offence against the proposed Act are to be dealt with summarily by a Local Court constituted by a Magistrate.

Clause 38 empowers the Governor to make regulations for the purposes of the proposed Act.

Clause 39 repeals the *Disposal of Uncollected Goods Act 1966*.

Clause 40 is a formal provision that gives effect to the Schedule of savings, transitional and other provisions.

Clause 41 requires the Minister to review the operation of the proposed Act after 5 years and report to Parliament on whether it is still appropriate.

Schedule 1 Savings, Transitional and other provisions

The Schedule contains 2 Parts. Part 1 contains a provision empowering the regulations to contain provisions of a savings or transitional nature consequent on the proposed repeal of the *Disposal of Uncollected Goods Act 1966* (clause 1). Part 2 contains provisions:

- (a) defining certain expressions for the purposes of the proposed Part (clause 2),
- (b) applying the proposed Act to existing bailments (clause 3),
- (c) continuing the effect of Part 2 of the repealed Act with respect to certain goods (clause 4),
- (d) continuing the effect of section 6 of the repealed Act with respect to the resolution of certain disputes (clause 5),
- (e) continuing the effect of Part 3 of the repealed Act with respect to certain goods (clause 6),
- (f) applying section 32 of the proposed Act to future bailments only (clause 7), and
- (g) applying sections 34 and 35 of the proposed Act to goods disposed of under the repealed Act (clause 8).



New South Wales

Uncollected Goods Bill 1995

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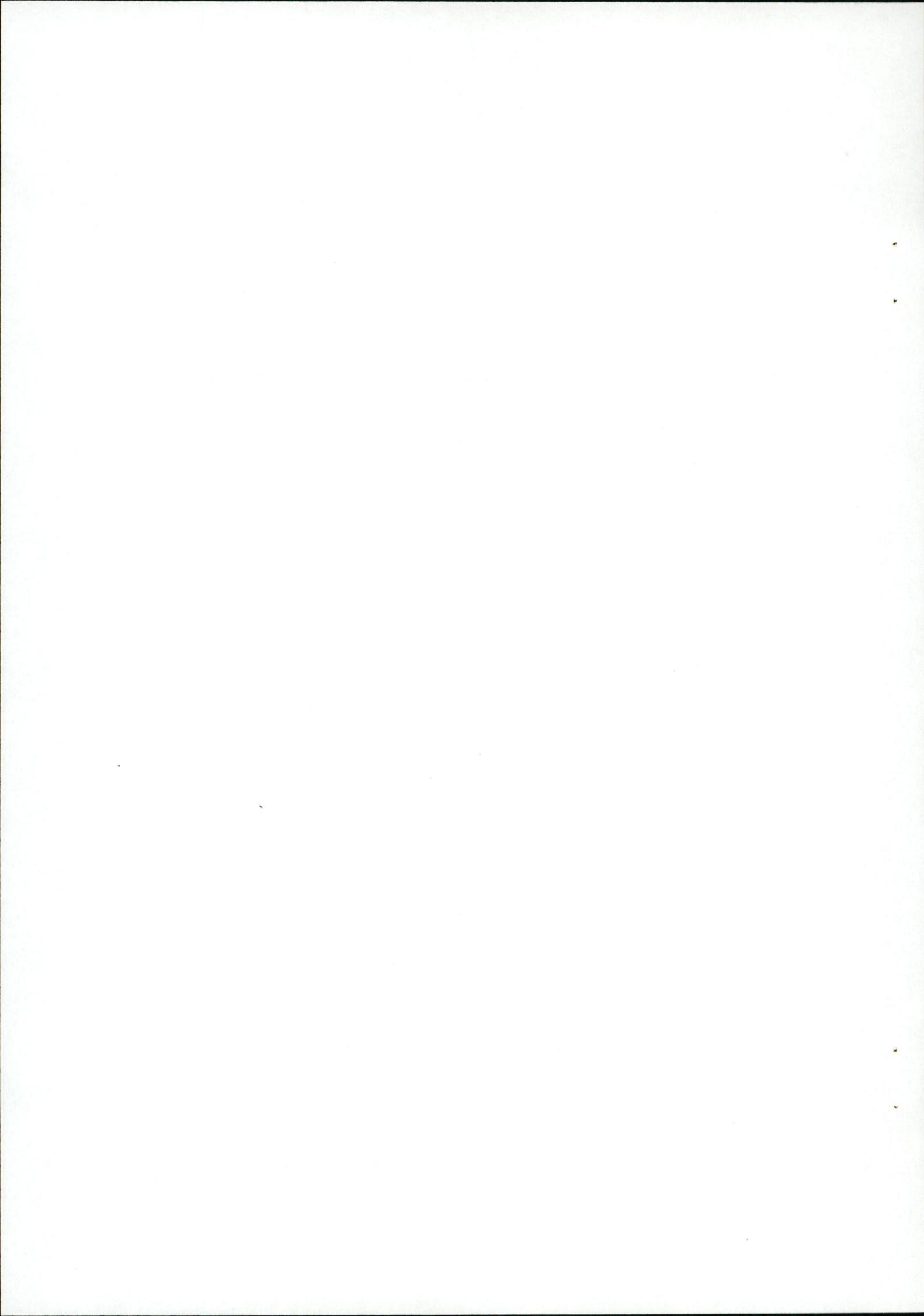
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New South Wales

Uncollected Goods Bill 1995

No. , 1995

A Bill for

An Act to provide for the disposal of uncollected goods; and to repeal the *Disposal of Uncollected Goods Act 1966*.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Uncollected Goods Act 1995*.

2 Commencement

5

This Act commences on a day to be appointed by proclamation.

3 Definitions

In this Act:

bailed goods means goods subject to bailment.

bailee and *bailor* include their respective successors. 10

bailment includes bailment for reward, bailment in the course of business, gratuitous bailment, involuntary bailment or any sub-bailment, but does not include anything excluded from this definition by the regulations.

dispose of includes sell or destroy. 15

goods means all chattels personal, other than things excluded from this definition by the regulations.

publicly registered interest in goods means an interest in the goods that is recorded in the Register of Interests in Goods under the *Registration of Interests in Goods Act 1986* or in any other register prescribed by the regulations. 20

relevant charges is defined in section 10 (for the purposes of Part 2) and in section 28 (for the purposes of Part 3).

uncollected goods means bailed goods that are uncollected as referred to in section 5. 25

4 Object of Act

- (1) The object of this Act is to provide persons in possession of uncollected goods subject to bailment (**bailees**) with means of disposing of those goods without incurring any liability to the bailor or any other person. 30

- (2) The means of disposal are by way of court order or after due notice to the bailor and others.

5 When goods uncollected for purposes of Act

Bailed goods are uncollected for the purposes of this Act if:

- (a) the goods are ready for delivery to the bailor in accordance with the terms of the bailment, but the bailor has failed to take delivery of the goods or, if those terms so provide, to give directions as to their delivery, or 5
- (b) the bailee is required to give notice to the bailor before the goods are so ready for delivery, but is unable to trace or communicate with the bailor, or 10
- (c) the bailee can reasonably expect to be relieved of any duty to safeguard the goods on giving notice to the bailor, but is unable to trace or communicate with the bailor.

6 When Act available for disposal of uncollected goods 15

- (1) This Act is available for the disposal of uncollected goods where there is no agreement between the parties on the means of their disposal. If there is such an agreement, this Act applies to any aspect of the disposal of those goods that is not dealt with in the agreement. 20
- (2) This Act is also available as an alternative to other statutory means of disposal of particular uncollected goods. However, it is not available as an alternative to the *Unclaimed Money Act 1982* or to any other Act or instrument prescribed by the regulations.
- (3) This section is subject to section 32. 25

7 No liability for due disposal of uncollected goods

A person who disposes of uncollected goods in accordance with this Act is not liable to any other person in respect of the goods merely because the person by whom the goods have been disposed of has been a bailee of the goods. 30

Part 2 Disposal of uncollected goods by way of court order

8 Applications to Local Court for orders for disposal of uncollected goods

- (1) A bailee may, in accordance with the regulations, apply to a Local Court for an order authorising the bailee to dispose of uncollected goods. 5

- (2) A copy of the application must be served on the bailor, on the owner of the goods and on each other person having or claiming an interest in the goods. 10

- (3) However, this section does not require a copy of the application to be served on a person (other than any person who has a publicly registered interest in the goods) if the bailee:
 - (a) is unaware of the fact that the person has or claims an interest in the goods, or 15
 - (b) cannot trace or communicate with the person.

- (4) An application for the disposal of a motor vehicle must be accompanied by:
 - (a) a certificate referred to in section 31 from the Commissioner of Police that the vehicle is not stolen, and 20
 - (b) a certificate under section 8 of the *Registration of Interests in Goods Act 1986* in relation to the vehicle.

9 Orders of Local Court

- (1) A Local Court may, on application made under this Part:
 - (a) if satisfied that the goods concerned are uncollected goods, make an order authorising the applicant to dispose of all or some only of those goods, or 25
 - (b) refuse to make such an order.

- (2) A Local Court may refuse to make such an order on any ground it considers appropriate, including the ground that there are more appropriate means for the disposal of those goods. 30

-
- (3) An order under this Part is to specify the following matters:
- (a) the goods to which it relates,
 - (b) the manner in which disposal of the goods is authorised,
 - (c) the date on or after which the goods may be disposed of under the order, 5
 - (d) the amount of the relevant charges due to the bailee in respect of the goods.

10 Relevant charges due to bailee

For the purposes of this Part, the amount of the **relevant charges** due to a bailee in respect of uncollected goods is the sum of the following amounts: 10

- (a) the amount agreed on between the bailor and the bailee (or, in the absence of such an agreement, such amount as is reasonable) as the charges due to the bailee for any carriage or storage of the goods or for any repairs or other work done in connection with the goods, 15
- (b) the amount of the costs incurred by the bailee (in respect of the period beginning with the date when the application for the order is made and ending with the date when the goods are disposed of) for any storage, maintenance or insurance of the goods, 20
- (c) the amount of the costs incurred by the bailee for the disposal of the goods in accordance with this Part.

11 Order may be made despite dispute about relevant charges or work done 25

- (1) A Local Court may make an order under this Part even though there is a dispute between the bailor and the bailee as to:
- (a) the amount of any charge made by the bailee for carriage or storage of the goods or for repairs or other work done in connection with the goods, or 30
 - (b) the condition of the goods or the nature or quality of any repairs or other work done in connection with the goods.

Clause 11 Uncollected Goods Bill 1995

Part 2 Disposal of uncollected goods by way of court order

- (2) The Local Court may reduce the amount of the relevant charges due to the bailee because of the condition of the goods or the nature or quality of any repairs or other work done in connection with the goods.

12 Effect of orders of Local Court 5

- (1) An order under this Part authorises the goods to which it relates to be disposed of in accordance with the terms of the order.
- (2) However, a person who has an interest in the goods is entitled, on payment to the bailee of the relevant charges due to the bailee in respect of the goods, to delivery of the goods at any time before they are disposed of. 10

13 Effect of other proceedings on orders of Local Court

- (1) If, at any time before they are disposed of under this Part, a person commences an action for the recovery of the goods, the order under this Part is suspended until the action is finally disposed of. 15
- (2) If, as a result of such an action, an order is made for the recovery of the goods, the order under this Part ceases to have effect.

14 Proceeds of sale

- (1) From the proceeds of sale of goods under this Part, the bailee is entitled to retain the relevant charges due to the bailee in respect of the goods. 20
- (2) The balance (if any) of the proceeds of sale are to be dealt with as if the bailee were a business and the money were unclaimed money for the purposes of the *Unclaimed Money Act 1982*. 25
- (3) If the proceeds of sale are insufficient to pay the relevant charges due to the bailee in respect of the goods, the bailee may recover the amount of the deficiency from the bailor, as a debt, in any court of competent jurisdiction.

15 Records 30

- (1) Within 7 days after disposing of goods in accordance with this Part, a bailee must prepare a record of the following particulars:

-
- (a) a description of the goods disposed of,
- (b) the date of the order under this Part by which disposal of the goods was authorised,
- (c) the date on which the goods were disposed of,
- (d) the manner in which the goods were disposed of, 5
- (e) in the case of goods that have been sold:
- the name and address of the person to whom they were sold, and
 - the amount of the proceeds of the sale, and
 - the amount retained by the bailee to cover the relevant charges due to the bailee in respect of the goods, 10
- (f) in the case of goods sold by public auction—the name, and the address of the principal place of business, of the auctioneer by whom the goods were sold. 15
- (2) A record prepared under this section must be kept by the bailee for at least 6 years from the date on which the goods were disposed of and must be made available by the bailee, on request, for inspection by the bailor or by any other person claiming an interest in the goods. 20

Maximum penalty: 5 penalty units.

16 Bailors may recover excess charges

The Local Court by which an order under this Part is made may, on the application of the bailor, give judgment for the bailor against the bailee for any amount paid by the bailor to the bailee (in respect of the bailee's charges for carriage or storage of the goods or for repairs or other work done in connection with the goods) in excess of the relevant charges. 25

17 Exercise of jurisdiction by Local Court

- (1) The jurisdiction conferred on a Local Court by this Part is to be exercised by a Magistrate sitting alone. 30

Clause 17 Uncollected Goods Bill 1995

Part 2 Disposal of uncollected goods by way of court order

- (2) A Local Court may not exercise the jurisdiction conferred by this Part if the value of the uncollected goods exceeds the amount of the limit of the Court's jurisdiction in an action for the recovery of a debt under the *Local Courts (Civil Claims) Act 1970*.
- (3) The provisions of the *Local Courts (Civil Claims) Act 1970* relating to appeals to the Supreme Court apply to the exercise of the Local Court's jurisdiction under this Act. 5

18 Exercise of jurisdiction by Supreme Court

- (1) The jurisdiction conferred on a Local Court by this Part may be exercised by the Supreme Court, but only with the leave of the Supreme Court. 10
- (2) The Supreme Court may exercise that jurisdiction even though the value of the uncollected goods exceeds the jurisdictional limit of a Local Court.
- (3) When deciding whether to grant leave, the Supreme Court may have regard to the value of the uncollected goods, the complexity of the legal issues involved, any related issues for which a Local Court does not have jurisdiction and any other relevant matter. 15
- (4) For the purpose of this section:
- (a) a reference in this Act (except section 17) to a Local Court is to be read as including a reference to the Supreme Court, and 20
 - (b) a reference in section 8 to the regulations is to be read as including a reference to the rules of court.

Part 3 Disposal of uncollected goods after due notice to bailor

19 Application of Part

This Part applies to uncollected goods, other than:

- (a) goods whose value is \$5,000 or more, or 5
- (b) goods in respect of which a dispute exists between the bailor and the bailee as to:
 - the amount of any charge made by the bailee for the carriage or storage of the goods or for repairs or other work done in connection with the goods, or 10
 - the condition of the goods or the nature or quality of any repairs or other work done in connection with the goods.

20 Goods of up to \$100 in value

- (1) A bailee may dispose of uncollected goods whose value is less than \$100 if the bailor: 15
 - (a) has been given oral or written notice of the bailee's intention to dispose of the goods, and
 - (b) has been given at least 28 days, from the date when notice was given, within which to collect the goods. 20
- (2) Uncollected goods may be disposed of under this section in such manner as the bailee considers appropriate.

21 Goods of between \$100 and \$500 in value

- (1) A bailee may dispose of uncollected goods whose value is less than \$500 (but not less than \$100), if the bailor, the owner of the goods and each person having or claiming an interest in the goods: 25
 - (a) have been given written notice of the bailee's intention to dispose of the goods, and
 - (b) have been given at least 3 months, from the date when notice was given, within which to collect the goods. 30

- (2) Uncollected goods may not be disposed of under this section otherwise than by way of public auction or by private sale for a fair value.

22 Goods of between \$500 and \$5,000 in value

- (1) A bailee may dispose of uncollected goods whose value is less than \$5,000 (but not less than \$500), if the bailor, the owner of the goods and each person having or claiming an interest in the goods: 5
- (a) have been given written notice of the bailee's intention to dispose of the goods, and 10
 - (b) have been given at least 6 months, from the date when notice was given, within which to collect the goods, and if a copy of the notice has, at least 28 days before the goods are disposed of, been published in a daily newspaper circulating generally throughout New South Wales. 15
- (2) Uncollected goods may not be disposed of under this section otherwise than by way of public auction.

23 Sections 19–22—variation of monetary limits

The regulations may vary the monetary limits referred to in sections 19–22. 20

24 Perishable goods

- (1) Nothing in this Part prevents a bailee from disposing of perishable uncollected goods (that is, goods that have perished or are in imminent danger of perishing) if the bailor and the owner of the goods: 25
- (a) have been given oral or written notice of the bailee's intention to dispose of the goods, and
 - (b) have been given a reasonable opportunity, having regard to the nature and condition of the goods, to collect the goods.
- (2) Goods may be disposed of under this section in such manner as the bailee considers appropriate. 30

25 Persons to whom notices not required to be given

Nothing in this Part requires notice to be given to a person (other than the bailor and any person who has a publicly registered interest in the goods) if the bailee: 35

- (a) is unaware of the fact that the person has or claims an interest in the goods, or
- (b) cannot trace or communicate with the person.

26 Form of notices

Notice under this Part must include:

- (a) the bailee's name, and 5
- (b) a description of the goods, and
- (c) an address where the goods may be collected, and
- (d) a statement of the relevant charges due to the bailee in respect of the goods, and 10
- (e) a statement to the effect that, on or after a specified date, the goods will be disposed of unless they are first collected and the relevant charges are paid, and
- (f) if applicable, a statement to the effect that the person will retain, out of the proceeds of sale of the goods, an amount not exceeding the relevant charges. 15

27 Service of notices

Any notice under this Part may be given to or served on the person personally or by means of a letter addressed to the person and left at, or sent by post to, the person's last known address. 20

28 Relevant charges due to bailee

For the purposes of this Part, the amount of the **relevant charges** due to a bailee in respect of uncollected goods is the sum of the following amounts:

- (a) the amount agreed on between the bailor and the bailee (or, in the absence of such an agreement, such amount as is reasonable) as the charges due to the bailee for any carriage or storage of the goods or for any repairs or other work done in connection with the goods, 25
- (b) the amount of the costs incurred by the bailee (in respect of the period beginning with the date when the notice about the disposal of the goods was given to the bailor and ending with the date when the goods are disposed of) for any storage, maintenance or insurance of the goods, 30

- (c) the amount of the costs incurred by the bailee for the disposal of the goods in accordance with this Part.

29 Proceeds of sale

- (1) From the proceeds of sale of goods under this Part, the bailee is entitled to retain the relevant charges due to the bailee in respect of the goods. 5
- (2) The balance (if any) of the proceeds of sale are to be dealt with as if the bailee were a business and the money were unclaimed money for the purposes of the *Unclaimed Money Act 1982*.
- (3) If the proceeds of sale are insufficient to pay the relevant charges due to the bailee in respect of the goods, the bailee may recover the amount of the deficiency from the bailor, as a debt, in any court of competent jurisdiction. 10

30 Records

- (1) Within 7 days after disposing of goods in accordance with this Part, a bailee must prepare a record of the following particulars: 15
- (a) a description of the goods disposed of,
 - (b) the date on which the goods were disposed of,
 - (c) the manner in which the goods were disposed of,
 - (d) in the case of goods that have been sold: 20
 - the name and address of the person to whom they were sold, and
 - the amount of the proceeds of the sale, and
 - the amount retained by the bailee to cover the relevant charges due to the bailee in respect of the goods, 25
 - (e) in the case of goods sold by public auction—the name, and the address of the principal place of business, of the auctioneer by whom the goods were sold.
- (2) A record prepared under this section must be kept by the bailee for at least 6 years from the date on which the goods were disposed of and must be made available by the bailee, on request, for inspection by the bailor or by any other person claiming an interest in the goods. 30
- Maximum penalty: 5 penalty units. 35

31 Sale of uncollected motor vehicles

- (1) A person must not sell a motor vehicle under this Part unless the Commissioner of Police has issued the person with a certificate to the effect that the motor vehicle is not for the time being recorded as being stolen. 5

Maximum penalty: 5 penalty units.

- (2) An application for such a certificate:
- (a) must specify the make, model, type, colour, registration number (if any), chassis number (if any) and engine number (if any) of the motor vehicle, and 10
 - (b) must be served on the Commissioner of Police at least 28 days before the motor vehicle is to be sold.

Part 4 Miscellaneous

32 Minimum period within which certain commercial bailees may dispose of uncollected goods by agreement

- (1) This section applies to uncollected goods:
- (a) which the bailee accepted for carriage or storage or for repairs or other work, and 5
 - (b) which were accepted in the course of a business prescribed by the regulations, and
 - (c) whose value exceeds \$100 or such other amount as may be prescribed by the regulations. 10
- (2) A provision of an agreement between a bailor and bailee which authorises the bailee to dispose of uncollected goods to which this section applies is void if the provision gives the bailor less than 3 months to collect the goods after the goods are ready for delivery to the bailor. 15

33 Common law

The common law relating to the bailment of goods remains in force to the extent to which it is not affected by this Act and a person is entitled to exercise any rights that the person may have at common law in relation to the recovery of goods or compensation for the loss of or damage to goods except to the extent to which this Act otherwise provides (for example, section 7). 20

34 Purchasers acquire good title

The purchaser of any goods sold under this Act acquires a good title to the goods, free from any interest that may have existed in the goods in favour of some other person before the goods were sold, if the purchaser buys them: 25

- (a) without notice of any failure by the bailee to comply with the provisions of this Act, and 30
- (b) without notice of any defect or want of title in the bailor.

35 Burden of proof

In any proceedings by or against a person in respect of goods that the person claims have been disposed of in accordance with the provisions of this Act, the burden of proving that the goods have been so disposed of rests on that person.

5

36 Act binds Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

37 Proceedings for offences

10

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

38 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

15

(2) In particular, the regulations may make provision for or with respect to:

20

(a) the keeping of records under this Act, and

(b) the valuation of goods for the purposes of this Act.

(3) The regulations may create offences punishable by a penalty not exceeding 10 penalty units.

39 Repeal of Disposal of Uncollected Goods Act 1966 No 57

25

The *Disposal of Uncollected Goods Act 1966* is repealed.

40 Savings, transitional and other provisions

Schedule 1 has effect.

41 Review of Act

(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

30

Clause 41 **Uncollected Goods Bill 1995**

Part 4 **Miscellaneous**

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

5

Schedule 1 Savings, transitional and other provisions

(Section 40)

Part 1 General

- 1 Regulations** 5
- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than its date of publication in the Gazette, the provision does not operate so as: 10
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 15
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on the enactment of this Act

 20

2 Definitions

In this Part:

appointed day means the day appointed under section 2 for the commencement of this Act.

repealed Act means the *Disposal of Uncollected Goods Act 1966*. 25

3 Act extends to existing bailments

This Act extends to bailments in existence on the appointed day, except as otherwise provided by this Schedule.

4 Disposal of uncollected goods without court order

- (1) Part 2 of the repealed Act continues to apply to goods in respect of which the bailee had, before the appointed day, given notice of intention to sell the goods in accordance with section 6 (1) (c) of that Act. 5
- (2) Sections 29 and 30 of this Act apply to goods sold pursuant to Part 2 of the repealed Act (as continued by subclause (1)) as if those goods had been sold pursuant to Part 3 of this Act.
- (3) Any records kept under section 7 of the repealed Act are taken to be records kept under section 30 of this Act. 10

5 Disputes

Section 6 (4) of the repealed Act continues to apply to an application for an order under that subsection that had been made, but not determined, before the appointed day.

6 Disposal of goods with court order 15

- (1) Part 3 of the repealed Act continues to apply to goods in respect of which an application under section 12 of that Act had been made, but not determined, before the appointed day.
- (2) Sections 14 and 15 of this Act apply to goods sold pursuant to Part 3 of the repealed Act (as continued by subclause (1)) as if those goods had been sold pursuant to Part 2 of this Act. 20
- (3) Any records kept under section 13 of the repealed Act are taken to be records kept under section 15 of this Act.

7 Minimum period for disposal by certain commercial bailees

Section 32 of this Act does not apply to uncollected goods of a kind to which that section applies if the goods were bailed before the day on which that section was applied to goods of that kind. 25

8 Purchasers acquire good title etc

Sections 34 and 35 of this Act apply to goods disposed of under the repealed Act (whether by virtue of this Schedule or otherwise) as if those goods had been disposed of under this Act.

