

# Uncollected Goods Act 1995 No 68

[1995-68]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Responsible Minister

- Minister for Better Regulation and Fair Trading

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Uncollected Goods Act 1995 No 68



New South Wales

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

## 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, and includes goods held by the Sheriff following their seizure under a writ of execution.

***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.

***depositor*** means the person who gives possession of goods (whether or not the person is the owner of the goods), and includes a bailor.

***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 relation to goods, means—

- (a) in the case of a motor vehicle or a boat or vessel—a security interest in the motor vehicle or the boat or vessel recorded in the Personal Property Securities Register under the *Personal Property Securities Act 2009* of the Commonwealth, or
- (b) in the case of any other goods—an interest in the goods recorded in a register

(whether of the Commonwealth or the State) that is prescribed by the regulations.

**receiver** means the person who takes possession of goods, and includes a bailee.

**relevant charges**—see section 28.

**Tribunal** means the Civil and Administrative Tribunal.

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

#### 4 (Repealed)

#### 5 When goods uncollected for purposes of Act

(1) Bailed goods are uncollected for the purposes of this Act if—

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

(2) Goods are also uncollected goods if—

- (a) a park owner reasonably believes the goods have been abandoned or left by the occupant on the site when an occupation agreement is terminated (within the meaning of the [Holiday Parks \(Long-term Casual Occupation\) Act 2002](#)), or
- (b) an operator reasonably believes the goods have been abandoned or left behind on residential premises when an agreement is terminated or on common property in the community (within the meaning of the [Residential \(Land Lease\) Communities Act 2013](#)), or
- (c) a landlord reasonably believes the goods have been abandoned or left behind by the tenant or an occupant of the premises after vacant possession of the premises is obtained or the premises are abandoned (within the meaning of the [Residential Tenancies Act 2010](#)), or
- (d) an operator reasonably believes the goods have been abandoned or left behind on residential premises when a residence contract is terminated or on common property within the retirement village (within the meaning of the [Retirement Villages Act 1999](#)), or
- (e) an owners corporation reasonably believes the goods have been abandoned or left

behind on common property of a strata scheme (within the meaning of the [Strata Schemes Management Act 2015](#)), or

(f) the goods are of a kind prescribed by the regulations.

## **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 following—
  - (a) the [Passenger Transport Act 1990](#),
  - (b) the [Passenger Transport Act 2014](#),
  - (c) the [Pawnbrokers and Second-hand Dealers Act 1996](#),
  - (d) the [Storage Liens Act 1935](#),
  - (e) the [Transport Administration Act 1988](#),
  - (f) the [Unclaimed Money Act 1995](#),
  - (g) any other Act or instrument prescribed by the regulations.
- (3) (Repealed)

## **7 No liability for due disposal of uncollected goods**

A person does not incur any liability in respect of the disposal of uncollected goods in accordance with this Act or in accordance with an order of the Tribunal.

## **Part 2**

### **8–18 (Repealed)**

## **Part 3 Disposal of uncollected goods after due notice to depositor**

### **19 Application of Part**

This Part applies to uncollected goods, other than bailed goods in respect of which a dispute exists between the depositor and the receiver as to—

- (a) the amount of any charge made by the receiver for the 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.

## **20 Low value uncollected goods**

- (1) This section applies to uncollected goods with a value of less than \$1,000 (***low value uncollected goods***).
- (2) A receiver may dispose of low value uncollected goods in an appropriate manner if the depositor—
  - (a) has been given oral or written notice of the receiver's intention to dispose of the goods, and
  - (b) has been given at least 14 days, from the date when notice was given, within which to collect the goods.
- (3) The receiver may move or store low value uncollected goods in an appropriate manner.

## **21 Medium value uncollected goods**

- (1) This section applies to uncollected goods with a value equal to or more than \$1,000 but less than \$20,000 (***medium value uncollected goods***).
- (2) A receiver may dispose of medium value uncollected goods by way of public auction or by private sale for a fair value if the depositor—
  - (a) has been given written notice of the receiver'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.
- (3) The receiver may move or store medium value uncollected goods in an appropriate manner.

## **22 High value uncollected goods**

- (1) This section applies to uncollected goods with a value of at least \$20,000 (***high value uncollected goods***).
- (2) A receiver must not dispose of high value uncollected goods otherwise than in accordance with an order of the Tribunal.  
  
Maximum penalty—200 penalty units.
- (3) A receiver may apply to the Tribunal for an order specifying the way in which the uncollected goods are to be disposed of.

- (4) The receiver may move or store high value uncollected goods in an appropriate manner.

## **22A Personal documents**

- (1) This section applies to personal documents that are uncollected goods.
- (2) A receiver may dispose of personal documents if the depositor—
  - (a) has been given written notice of the receiver's intention to dispose of the documents, and
  - (b) has been given at least 28 days, from the date when notice was given, within which to collect the documents.
- (3) Personal documents must be disposed of by way of a secure destruction method or by returning the documents to their author.

- (4) In this section—

***personal document*** means—

- (a) a birth certificate, passport or other identity document, or
- (b) bank books or other financial statements or documents, or
- (c) photographs and other personal memorabilia, or
- (d) licences or other documents conferring authorities, rights or qualifications, or
- (e) any other record, or class of record, prescribed by the regulations for the purposes of this definition.

## **23 Sections 19-22—variation of monetary limits**

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

## **24 Perishable goods and rubbish**

- (1) Nothing in this Part prevents a receiver from disposing of rubbish or perishable uncollected goods.
- (1A) A receiver is not required to give a depositor notice of the receiver's intention to dispose of the goods.
- (2) Goods may be disposed of under this section in such manner as the receiver 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 depositor and



any person who has a publicly registered interest in the goods) if the receiver—

- (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 receiver'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 receiver 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—

- (a) personally or by a letter addressed to the person and left at, or sent by post to, the person's last known address, or
- (b) by email to an email address specified by the person for the service of notices of that kind, or
- (c) by any other method authorised by the regulations for the service of notices of that kind.

## **28 Relevant charges due to receiver**

- (1) For the purposes of this Part, the amount of the **relevant charges** due to a receiver in respect of uncollected goods is the sum of the following amounts—
  - (a) the amount agreed on between the depositor and the receiver (or, in the absence of such an agreement, such amount as is reasonable) as the charges due to the receiver 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 receiver (in respect of the period beginning with the date when the notice about the disposal of the goods was given to the depositor and ending with the date when the goods are disposed of)

for any carriage, storage, maintenance or insurance of the goods,

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

(2) This section does not apply to personal documents.

## **29 Proceeds of sale**

(1) From the proceeds of sale of goods under this Part, the receiver is entitled to retain the relevant charges due to the receiver in respect of the goods.

(2) The balance (if any) of the proceeds of sale are to be dealt with as if the receiver were a business and the money were unclaimed money for the purposes of the [Unclaimed Money Act 1995](#).

(3) If the proceeds of sale are insufficient to pay the relevant charges due to the receiver in respect of the goods, the receiver may recover the amount of the deficiency from the depositor, as a debt, in any court of competent jurisdiction.

## **30 Records**

(1A) This section applies to low value uncollected goods, medium value uncollected goods, high value uncollected goods and personal documents.

(1) Within 7 days after disposing of goods in accordance with this Part, a receiver 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 receiver to cover the relevant charges due to the receiver 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—

(a) be kept by the receiver for at least the following period from the date on which the goods were disposed of—

- (i) in relation to low value uncollected goods—12 months,
- (ii) in any other case—6 years, and
- (b) be made available by the receiver, on request, for inspection by the depositor 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 and the person has obtained a written search result (within the meaning of section 174 of the [Personal Property Securities Act 2009](#) of the Commonwealth) in relation to the vehicle.

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 3A Disposal of uncollected goods by way of Tribunal order**

### **31A Receiver may seek Tribunal direction**

- (1) The Tribunal may, on application by a receiver, make any one or more of the following orders—
  - (a) an order authorising the removal or other disposal of uncollected goods,
  - (b) an order directing that notice of any action or proposed action in relation to uncollected goods be given to the depositor, the legal personal representative of a depositor or any other person,
  - (c) an order authorising the sale of uncollected goods,
  - (d) an order as to the manner of sale of uncollected goods,
  - (e) an order as to the payment of the proceeds of sale of uncollected goods,
  - (f) any ancillary order that the Tribunal, in the circumstances, thinks appropriate.
- (2) A receiver must deal with goods in accordance with an order of the Tribunal under this section and not in accordance with the other provisions of this Act relating to disposal

of goods.

(3) This section does not apply to perishable goods.

### **31B Orders by Tribunal relating to uncollected goods**

(1) The Tribunal may, on application by a depositor or a person who has an interest in uncollected goods, make any of the following orders—

(a) an order requiring the receiver to pay compensation for uncollected goods disposed of by the receiver otherwise than in accordance with this Act,

(b) an order requiring the receiver to pay compensation for uncollected goods damaged after being left in the possession of the receiver and before being claimed by the person entitled to them,

(c) an order that the receiver deliver uncollected goods into the depositor's or other person's possession,

(d) an order requiring the receiver to pay the proceeds of sale, or an amount equivalent to the value of the uncollected goods, to the depositor or person,

(e) any ancillary order that the Tribunal, in the circumstances, thinks appropriate.

(2) An application for an order under this section must be made within the period prescribed by the regulations.

## **Part 4 Miscellaneous**

### **32 (Repealed)**

### **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 receiver to comply with the provisions of this Act, and

(b) without notice of any defect or want of title in the depositor.

### **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 the Local Court.

### **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.