



# Uncollected Goods Act

## Background Information

The New South Wales Parliament repealed the Disposal of Uncollected Goods Act 1995 and replaced it with the Uncollected Goods Act 1995 No 68 which came into force 1 July 2020.

## When the Uncollected Goods Act Applies

The Act applies when there is no agreement between the parties as to the means of disposal of uncollected goods.

Goods are uncollected for the purpose of the Act when there is no other agreement between the parties as to the disposal of goods and:

- The goods are ready for collection but the depositor (i.e. the person who left the goods for repair) fails to take delivery of the goods; or
- The receiver (i.e. the repairer) is unable to trace or communicate with the bailor for the purpose of telling him the goods are available for delivery; or
- 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.

## Disposal of uncollected goods after due notice to depositor

### 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

## 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.



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## ➤ High Value Uncollected Goods

- This section applies to uncollected goods with a value of at least \$20,000
- A receiver must not dispose of high value uncollected goods otherwise than in accordance with an order of the Tribunal.
- A receiver may apply to the Tribunal for an order specifying the way in which the uncollected goods are to be disposed of.
- The receiver may move or store high value uncollected goods in an appropriate manner

A copy of the application to NCAT must be served on the depositor. If the receiver is aware that the depositor is not the owner of the goods and the owner is traceable or can be communicated with, a copy of the NCAT application must also be served on the owner. Similarly a copy of the application must be served on any other person (including those disclosed by a PPSR search) who has or claims to have an interest in the goods provided the receiver can trace or communicate with that person or persons.

## ➤ Medium Valued Uncollected Goods

- This section applies to uncollected goods with a value equal to or more than \$1,000 but less than \$20,000.
- 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.
- The receiver may move or store medium value uncollected goods in an appropriate manner

If the goods are not collected during the period of notice they may be disposed of by public auction or by private sale for a fair value. Note that the period of 28 days notice runs from the time the notice was given – not from when the goods were left.

## ➤ Low Value Uncollected Goods

- This section applies to uncollected goods with a value of less than \$1,000.
- 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.
- The receiver may move or store low value uncollected goods in an appropriate manner



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## 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:

- 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.

## Service of notices

Any notice under this Part may be given to or served on the person:

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

## Form of notices

Notice under this Part must include

- the receiver's name, and
- a description of the goods, and
- an address where the goods may be collected, and
- a statement of the relevant charges due to the receiver in respect of the goods, and
- 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
- 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.



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*Member to print on their letterhead*

*Company name*

*Address*

*City State Postcode*

*Date*

*To Name of person/Company*

*Address etc*

## Re: Uncollected Goods

Dear Mr/Mrs XXXXX,

WHEREAS the goods described hereunder are ready for collection by you or your agent and from the address appearing in the above letterhead and payment of the following amounts:

\$\_\_\_\_\_ in accordance with invoice # \_\_\_\_\_ (copy enclosed), being the amount agreed for the repair or other treatment of the goods;

An amount accruing at the rate of \$\_\_\_\_\_ per day (storage) commencing from the date of this notice.

The goods to be collected are:\_\_\_\_\_.

**TAKE NOTICE** pursuant to the provisions of the **Uncollected Goods Act 1995 No68** that the total sum owing is not paid and the goods are not collected from (insert your address) the goods will be disposed of on or after the (insert date) and out of the proceeds of sale of the goods the total sum owing (including all of the costs associated with the disposal of the goods) will be retained

**Yours Faithfully,**

**Name**

**Position in business**

**date**



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## What are “Relevant Charges”?

The “relevant charges” due to the holder of the goods in respect of uncollected goods is the sum of:

- The amount agreed between the depositor and the receiver as the amount due for any carriage of storage of goods or any other repairs or other work done in connection with the goods (if there is no agreement, then such amount as is reasonable);
- The amount of costs incurred by the receiver during the period commencing from when the notice was served and ending when the goods are disposed of, for any storage, maintenance and insurance of the goods; and
- The amount of costs incurred by the receiver for the disposal of the goods.

## Before the Goods are Disposed of:

If the uncollected goods is a motor vehicle the receiver must apply to the Commissioner of Police at least 28 days before the vehicle is to be disposed of for a certificate to the effect that the vehicle is not for the time being recorded as stolen. The vehicle cannot be disposed of until that certificate has been issued. A fine of up to \$5,000 may be imposed for failure to comply with this requirement. Speak to your local Police Station about organising this.

## Once the Goods Have Been Disposed of...

- Deduct from the proceeds of the sale the relevant charges you are entitled to retain;
- Within seven days of disposing of the goods, prepare a record for the disposal and keep it for 12 months (low value goods) or six years (medium & high value goods) after the disposal. This record must be made available for inspection by the depositor or any other person claiming an interest in the goods. A sample record which can be adapted to meet the circumstances is attached;
- Within 14 days of the sale of the uncollected goods the balance (if any) must be placed in a bank savings account opened in the name of the bailee for that purpose.

If, after 12 months, the surplus has not been paid to the depositor the money, including any interest accrued, must be paid to the Chief Commissioner of Unclaimed Monies at the NSW Office of State Revenue – the payment must be accompanied by a copy of the record of the disposal, an example of this record is available on the next page. **This must be done within fourteen days of the expiration of the 12 month period. A fine of up to \$5,000 may be imposed for failure to comply with this requirement.**



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## UNCOLLECTED GOODS ACT 1995 No 68 RECORD OF DISPOSAL OF UNCOLLECTED GOODS

Description of Goods	
Date Goods Disposed of	
Manner in which Goods were Disposed of	
Name of person sold to	
Address of person sold to	
Amount goods sold for	\$
Amount of relevant charges retained by receiver	\$

This information guide is provided by the Motor Traders' Association of New South Wales for its Members. Information provided is intended to be a guide only and should not be relied upon in lieu of independent Legal or Professional advice. Specific advice should be sought by calling 02 9016 9000.

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