

South Australia

Unclaimed Goods Act 1987

An Act to provide for the disposal of unclaimed goods, and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Unclaimed Goods Act 1987*.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

bailee means a person in possession of goods belonging to another;

bailor means the owner of goods in the possession of a bailee;

Court means—

- (a) in relation to a question affecting unclaimed goods of which the value does not exceed \$100 000—the Magistrates Court;
- (b) in relation to a question affecting unclaimed goods of which the value exceeds \$100 000—the District Court or the Supreme Court;

the relevant date in relation to unclaimed goods means the date on which the goods become unclaimed goods for the purposes of this Act;

scale 1 in relation to the value of unclaimed goods means a value of \$100 or less;

scale 2 in relation to the value of unclaimed goods means a value of more than \$100 but less than \$500;

scale 3 means in relation to the value of unclaimed goods means a value of \$500 or more.

- (2) This Act applies to all goods in the possession of a bailee, including goods in the bailee's possession immediately before the commencement of this Act.

4—Act binds Crown

This Act binds the Crown.

5—Unclaimed goods

- (1) Where a person (the bailee) is in possession of goods belonging to another (the bailor), those goods are unclaimed goods for the purposes of this Act—
- (a) if the bailee received the goods in pursuance of an agreement or understanding under which the bailor was to collect the goods at a certain time or within a certain period, and the bailor has failed to do so; or
 - (b) if—
 - (i) the bailee has the goods in pursuance of an agreement or understanding under which the bailee was to deliver the goods to the bailor; and
 - (ii) the bailee, after making reasonable attempts to do so, has not been able to deliver the goods in accordance with the agreement or understanding; or
 - (c) if there is no agreement or understanding governing the collection or delivery of the goods but the bailee has requested the bailor to collect the goods and the bailor has refused to do so or has, at the expiration of 42 days from the date of the request, not done so.
- (2) A request for the purposes of subsection (1)(c)—
- (a) must state the address at which the goods are available for collection; and
 - (b) must contain a brief description of the goods; and
 - (c) must state the times at which, or the hours between which, the goods will be available for collection at that address; and
 - (d) may be made—
 - (i) by post addressed to the last known address of the bailor; or
 - (ii) if the identity or whereabouts of the bailor is unknown—by notice in the prescribed form published in a newspaper circulating generally throughout the State.
- (3) A request will not be regarded as having been validly made for the purposes of subsection (1)(c) unless it allows the bailor a reasonable opportunity to collect the goods to which it relates.

6—Sale or disposal of unclaimed goods

- (1) Subject to this section, a bailee of unclaimed goods may, after the expiration of three months from the relevant date—
- (a) sell the goods; or

- (b) if the value of the goods would be insufficient to defray the costs of sale—otherwise dispose of the goods.
- (2) The sale or disposal of goods under subsection (1) may be authorised, on the application of the bailee, by the Court and, if the value of the goods lies within scale 3, the goods must not be sold or disposed of without such an authorisation.
- (3) Where a bailee applies for an authorisation under subsection (2)—
 - (a) notice of the application must be given to the Commissioner of Police; and
 - (b) such notice (if any) as the Court thinks appropriate must be given to the bailor and any other person who, in the opinion of the Court, may have an interest in the goods.
- (4) Where the Court grants an authorisation under subsection (2), it may give such directions in relation to the sale or disposal of the goods as it thinks fit.
- (5) If the value of unclaimed goods lies within scale 1 or 2 the goods may be sold or disposed of under subsection (1) without any authorisation by the Court but if goods whose value lies within scale 2 are to be sold without such an authorisation—
 - (a) the goods must be sold by public auction; and
 - (b) notice in the prescribed form of the time and place of the proposed sale must be given at least one month before the date of the proposed sale—
 - (i) to the Commissioner of Police; and
 - (ii) to the bailor.
- (6) A notice under subsection (5)(b) may be given by post and, if the identity or whereabouts of the bailor is unknown, the notice to the bailor may be given by advertisement in a newspaper circulating generally throughout the State.

7—Claim made by bailor after commencement of proceedings under this Act

- (1) Subject to subsection (2), where a bailee has commenced proceedings for the sale or disposal of goods under this Act but before the goods are sold or disposed of the bailor claims the goods, the bailee must not proceed with the sale or disposal of the goods, and must hand them over to the bailor.
- (2) The bailee may, before handing over goods under subsection (1), require the bailor to pay—
 - (a) the reasonable costs incurred by the bailee in proceeding under this Act;
 - (b) the reasonable costs incurred by the bailee in storing and maintaining the goods after the date on which the bailor should have collected or taken delivery of them;
 - (c) the amount of any lien that the bailee has over the goods.
- (3) If at the expiration of 42 days after the bailee has rendered a written account of the amounts claimed under subsection (2) the bailor has not paid those amounts, the bailee may, subject to subsection (4), proceed to sell or dispose of the goods.

- (4) The bailor may apply to the Court for review of an account rendered under subsection (3) and, in that event—
 - (a) the goods must not be sold or disposed of until the review has been completed; and
 - (b) the Court may, on the review, disallow the bailee's charges in whole or in part.

8—Proceeds of sale

- (1) The proceeds of the sale of goods under this Act will be dealt with as follows:
 - (a) the bailee may retain from those proceeds—
 - (i) the reasonable costs of the sale and of proceeding under this Act;
 - (ii) the reasonable costs of storing and maintaining the goods prior to sale;
 - (iii) the amount of any lien that the bailee had over the goods; and
 - (b) the balance will be paid to the Treasurer.
- (2) If the Treasurer is satisfied that a person—
 - (a) had, prior to the sale, an interest in goods sold under this Act; or
 - (b) has, after the sale, an interest in the proceeds of the sale of goods under this Act,

the Treasurer may pay to that person the whole or any part of the balance paid to the Treasurer in respect of the sale of those goods under subsection (1)(b).

9—Purchaser's title to goods sold under this Act

- (1) A person who purchases goods that are sold in pursuance of this Act acquires a good title to the goods.
- (2) The purchaser's title is free of—
 - (a) any mortgage, lien or charge in favour of the bailee;
 - (b) any other mortgage, lien or charge affecting the goods at the time of the sale of which the purchaser was then unaware.

10—This Act does not affect bailee's remedy under other Acts

This Act does not affect a bailee's right to dispose of goods in accordance with any other Act.

11—Regulations

- (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.
- (2) In particular the regulations may—
 - (a) prescribe the information to be contained in any notice required to be given under this Act; and
 - (b) vary the scales of values fixed under section 3.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1987	15	<i>Unclaimed Goods Act 1987</i>	9.4.1987	1.8.1987 (<i>Gazette 30.7.1987 p273</i>)
1993	62	<i>Statutes Amendment (Courts) Act 1993</i>	27.5.1993	s 41—1.7.1993 (<i>Gazette 24.6.1993 p2047</i>)
2001	69	<i>Statutes Amendment (Courts and Judicial Administration) Act 2001</i>	6.12.2001	Pt 15 (ss 33 & 34)—3.2.2002 (<i>Gazette 24.1.2002 p346</i>)
2011	11	<i>Statutes Amendment (Personal Property Securities) Act 2011</i>	14.4.2011	Pt 25 (s 65)—16.6.2011 (<i>Gazette 16.6.2011 p2610</i>)
2012	43	<i>Statutes Amendment (Courts Efficiency Reforms) Act 2012</i>	22.11.2012	Pt 14 (ss 43 & 44)—1.7.2013 (<i>Gazette 16.5.2013 p1541</i>)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3		
s 3(1)		
<i>the Court</i>	<i>deleted by 62/1993 s 41</i>	<i>1.7.1993</i>
Court	inserted by 62/1993 s 41	1.7.1993
	amended by 69/2001 s 33	3.2.2002
	amended by 43/2012 s 43	1.7.2013
s 8		
s 8(2)	substituted by 11/2011 s 65	16.6.2011

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Courts and Judicial Administration) Act 2001

34—Transitional provision

The amendments made to the principal Act by this Part—

- (a) do not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

Statutes Amendment (Courts Efficiency Reforms) Act 2012

44—Transitional provision

The amendment made to the *Unclaimed Goods Act 1987* by this Part—

- (a) does not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) applies in respect of proceedings commenced on or after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

Historical versions

Reprint No 1—1.7.1993

Reprint No 2—3.2.2002

16.6.2011