



Australian Capital Territory

Uncollected Goods Act 1996

A1996-86

Republication No 3

Effective: 26 August 2005 – 23 November 2005

Republication date: 26 August 2005

Last amendment made by A2005-19

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Uncollected Goods Act 1996* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 26 August 2005. It also includes any amendment, repeal or expiry affecting the republished law to 26 August 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Uncollected Goods Act 1996

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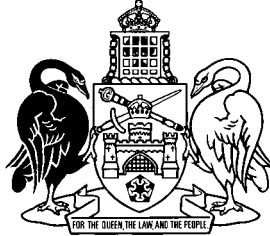
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Australian Capital Territory

Uncollected Goods Act 1996

An Act to provide for the disposal of uncollected, lost or abandoned goods, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Uncollected Goods Act 1996*.

3 Application of Act

- (1) Subject to subsection (2), this Act applies to goods in the possession of a person whether the goods came into the person's possession before, on or after the commencement of this section.
- (2) This Act does not apply to—
 - (a) unclaimed prizes under the *Lotteries Act 1964*; or
 - (b) unclaimed moneys under the *Unclaimed Moneys Act 1950*; or
 - (c) cheques, IOUs or other writings for securing the payment of money, goods or other property; or
 - (d) animals under the *Dog Control Act 1975*; or
 - (e) firearms, firearm parts or ammunition under the *Firearms Act 1996*; or
 - (f) prohibited weapons or prohibited articles under the *Prohibited Weapons Act 1996*.

4 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

authorised officer means an authorised officer under section 16.

carriageway, in relation to a public street, includes the gutter (if any) of the public street.

goods means moveable personal property, including animals and food.

goods of low value means uncollected goods having a net value of more than \$20 but less than \$500.

goods of no value means uncollected goods having a net value of \$20 or less.

goods of significant value means uncollected goods having a net value of \$500 or more.

leased public baths means public baths of which a lease has been granted by the Minister administering the *Public Baths and Public Bathing Act 1956*.

manager means—

- (a) in relation to any public baths which are not leased public baths—the person for the time being occupying, or performing the duties of, the office of manager of the baths or, if there is no such office, the person who, for the time being, is the senior attendant at the baths; and
- (b) in relation to leased public baths—the lessee of the baths.

net value, in relation to goods, means the market value of the goods less the reasonable costs of selling the goods including removal, storage, preservation, transportation and advertising costs.

off-street parking area means an area of land available for use by the public, whether with or without the payment of money, for the parking of motor vehicles, and includes—

- (a) the entrances to, the exits from and the passageways in such an area; and
- (b) the area of land that is situated between the entrances to and the exits from such an area and a public street and that is used for access to the area.

owner means the owner of goods in the possession of another person.

perishable goods means—

- (a) animals; or
- (b) perishable foodstuffs; or
- (c) articles that are, or could become, noxious or a danger to public health.

personal effects includes private and personal papers, official records, bankbooks, certificates and photographs.

possessor means a person in possession of goods belonging to another person.

public baths means any baths or swimming pool declared under the *Public Baths and Public Bathing Act 1956*, section 6 (2) to be public baths, and includes all land, buildings and other improvements within the boundary fences and boundary walls enclosing the baths or swimming pool.

public place means—

- (a) an off-street parking area; or
- (b) a loading area; or
- (c) a wharf, pier or jetty; or
- (d) the Lake Burley Griffin foreshores; or
- (e) any part of a park, reserve, recreational or sporting ground, racecourse, or any other open place, to which the public has access whether with or without payment for admission, other than a street, road or lane that is prepared with cement or concrete or is sealed with bitumen or other sealing substance.

public street means a street, road, lane or footpath (including a street, road, lane or footpath on or forming part of a bridge) that is open to or used by the public, but does not include—

- (a) an entrance-driveway leading to a parcel of land; or
- (b) any part of a public place.

retention area means an area declared under section 17 to be a retention area for division 2.4.

trust bank account means a trust bank account opened by the Minister or the chief executive and maintained under the *Financial Management Act 1996*, section 51.

uncollected goods—see section 5.

value means the price goods would attract in the market where no special or extraordinary effort would be expended in selling them, irrespective of a particular contract.

vehicle means any means of conveyance which runs on wheels, but does not include any vehicle used on a railway or a wheelchair.

Part 2 Uncollected goods

Division 2.1 Meaning of uncollected goods

5 Goods deemed uncollected

Goods shall be deemed to be *uncollected goods* for this Act—

- (a) where the possessor received the goods in pursuance of an agreement under which—
 - (i) the owner was to collect the goods at a certain time or within a certain period and has failed to do so; or
 - (ii) the possessor was to deliver the goods to the owner and, after making a reasonable attempt, the possessor is unable to do so in accordance with the agreement; and
- (b) where the possessor has a lien on the goods under the *Mercantile Law Act 1962* and a notice of intention to sell the goods has been given in accordance with section 22 (2) of that Act, but the charges stated in the notice have not been paid by the day specified in the notice; and
- (c) where the goods are received by the possessor in the absence of any agreement regarding collection of the goods—
 - (i) in the case of perishable goods or goods of no value—immediately the goods are received by the possessor; or
 - (ii) in the case of any other goods—the owner has refused or failed to comply with a request made in accordance with section 7 to collect the goods; and
- (d) where the goods were lost or abandoned at public baths—
 - (i) in the case of perishable goods or goods of no value—immediately the manager or attendant at the baths takes possession of the goods; or

- (ii) in the case of any other goods—if the goods have not been given to a person entitled to their possession within the period specified in section 12; and
- (e) where the goods were lost or abandoned on public or unleased land—
 - (i) in the case of perishable goods or goods of no value—immediately the goods are found by an authorised officer; or
 - (ii) in the case of any other goods—
 - (A) immediately the goods are moved to a retention area under section 14 (1) (a) (i); or
 - (B) if the goods have not been collected by the owner in accordance with a notice affixed to the goods under section 14 (1) (a) (ii).

Division 2.2 Goods not collected when requested

6 Application of div 2.2

This division applies to goods received in the absence of an agreement for their collection.

7 Request to collect goods

- (1) A possessor may request the owner of goods to collect the goods within 7 days of the date of the request.
- (2) A request under subsection (1) shall—
 - (a) be in writing; and
 - (b) contain—
 - (i) a brief description of the goods; and

- (ii) the address at which the goods are available for collection; and
 - (iii) a statement of the times at which, or the hours between which, the goods will be available for collection at that address; and
 - (iv) a statement that the goods may be disposed of in accordance with part 3 if they are not collected within 7 days of the date of the request; and
 - (v) a statement of any costs that must be met by the owner before the goods will be released by the possessor.
- (3) A request—
- (a) shall be sent to the owner’s last-known address; and
 - (b) if the possessor does not have an address for the owner and has not been able to ascertain it through reasonable inquiry—shall be published in a daily newspaper printed and circulating in the ACT.

8 Uncollected goods—goods not collected when requested

Where an owner refuses or fails to comply with a request made in accordance section 7, the goods shall be deemed to be uncollected goods and may be disposed of in accordance with part 3.

Division 2.3 Goods found at public baths

9 Goods lost or abandoned at public baths

Where goods that a reasonable person would believe have been lost or abandoned are found at public baths—

- (a) by a manager or attendant at the baths—he or she shall take possession of the goods; or

- (b) by any other person—he or she shall immediately place the goods in the possession of the manager of or an attendant at the baths.

10 Lost property register

The manager or attendant shall, on taking possession of goods, other than perishable goods, under section 9, enter in a register, to be known as the lost property register—

- (a) a description of the goods; and
(b) any other particulars relating to the goods.

11 Claims for lost property

A person who—

- (a) satisfies the manager or an attendant at the baths that he or she is entitled to possession of goods entered in the register; and
(b) enters his or her signature and address in the lost property register as evidence of receiving the goods;

may be given possession of the goods.

12 Uncollected goods—public baths

Where goods have not been given to a person entitled to their possession within 3 months of the manager or attendant taking possession of them under section 9, the goods shall be deemed to be uncollected goods and may be disposed of in accordance with part 3.

Division 2.4 Goods found on public or unleased land

13 Application of div 2.4

This division applies in relation to—

- (a) land lying between the carriageway of a public street and the boundary of leased land; and
- (b) any part of a public street, including land lying between the carriageways of a public street; and
- (c) any other unleased land, other than unleased land on which there are premises in respect of which the commissioner for housing is the lessor under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.

14 Goods lost or abandoned on public or unleased land

- (1) Where goods, other than perishable goods or goods of no value, that a reasonable person would believe have been lost or abandoned are found on land—
 - (a) by an authorised officer, he or she may—
 - (i) subject to subsection (2), cause the goods to be removed and placed in a retention area; or
 - (ii) cause to be affixed to the goods a notice to the effect that the goods may be disposed of in accordance with part 3 if they are not removed within 7 days of the date of the notice; or
 - (b) by any other person—he or she shall immediately place the goods in the possession of a police officer.
- (2) Subsection (1) (a) does not apply to—
 - (a) goods that are on the land with the authority of an authorised officer or by virtue of any other law of the Territory; or
 - (b) an object that was placed on the land in pursuance of a permit in force under the *Roads and Public Places Act 1937*; or
 - (c) a vehicle that is parked on a road or road related area (within the meaning of the *Road Transport (Safety and Traffic*

Management) Act 1999, section 42 (Regulations about parking)) unless the authorised officer has reasonable grounds for believing that the vehicle—

- (i) has been abandoned; or
- (ii) is an obstruction or hazard to people on, or who might come on, the land; or
- (iii) is placed in a way that contravenes the regulations made under the *Road Transport (Safety and Traffic Management) Act 1999*.

15 Uncollected goods—public or unleased land

Where goods—

- (a) have been moved to a retention area under section 14 (1) (a) (i); or
- (b) are not claimed within the period specified in the notice under section 14 (1) (a) (ii);

the goods shall be deemed to be uncollected goods and may be disposed of in accordance with part 3.

16 Authorised officers

- (1) There shall be 1 or more authorised officers for this division.
- (2) A chief executive may create and maintain 1 or more offices in the public service the duties of which include performing the functions of an authorised officer.
- (3) The following persons shall be authorised officers:
 - (a) any public servant for the time being performing the duties of a public service office of authorised officer referred to in subsection (2); or

- (b) any other person appointed in writing by a chief executive for the purpose.
- (4) If a person becomes an authorised person, the relevant chief executive must issue to the authorised officer an identity card that specifies the authorised officer's name and office, and on which appears a recent photograph of the authorised officer.
- (5) Upon ceasing to occupy, or to act in, an office of authorised officer, a person shall not, without reasonable excuse, fail to return his or her identity card to the chief executive who issued the identity card.

Maximum penalty (subsection (5)): 1 penalty unit.

17 Retention areas

- (1) The Minister may, in writing, declare that an area of land is a retention area for this division.
- (2) A declaration is a notifiable instrument.
Note A notifiable instrument must be notified under the *Legislation Act 2001*.
- (3) Goods that are on an area of land when the land is declared to be a retention area are, for this division, taken to have been placed in the retention area under section 14 (1) (a) (i).

Part 3 Disposal of uncollected goods

Division 3.1 Mode of disposition

18 Disposal generally

A possessor may dispose of uncollected goods in accordance with this part.

19 References to time

In relation to the disposal of goods under this part—

- (a) a reference to any time is a reference to any time after the goods became uncollected goods; and
- (b) a reference to a period of time is a reference to the period commencing at the time at which the goods became uncollected goods.

20 Perishable goods

Perishable goods may be disposed of by sale, appropriation or destruction at any time.

21 Personal effects

Personal effects may be disposed of by public auction after 3 months.

22 Goods of no value

Goods of no value may be disposed of by sale, appropriation or destruction after 1 week.

23 Goods of low value

Goods of low value may be disposed of by sale, appropriation or destruction after 1 month.

24 Goods of significant value

Goods of significant value may be disposed of by public auction after 3 months.

Division 3.2 Sale of goods

25 Public auctions

- (1) Where uncollected goods are to be disposed of by public auction, the possessor shall, at least 7 days before it is held, advertise the time and place of the auction and a general description of the goods to be sold in a daily newspaper printed and circulating in the ACT.
- (2) Any goods passed in at the auction may be disposed of or destroyed in such manner as the possessor sees fit.

Division 3.3 Claims by owners

26 Claim by owner before disposal

- (1) Where, at any time before the disposal of uncollected goods, a person satisfies the possessor that he or she is the owner of goods, the possessor may give the goods to that person.
- (2) The possessor may, before handing over goods under subsection (1), require the owner to pay—
 - (a) the reasonable costs incurred by the possessor in complying with this Act; and
 - (b) the reasonable costs incurred by the possessor in storing and maintaining the goods prior to collection; and

- (c) the amount of any lien under the *Mercantile Law Act 1962* the possessor has over the goods; and
- (d) the amount of any unpaid rent the owner owes to the possessor.

27 Review of possessor's costs

The owner of uncollected goods may, at any time before the goods are disposed of under this part, apply to the Magistrates Court for a review of any costs that the possessor requires the owner to pay under section 26 (2) and the court may make an order—

- (a) that the goods not be disposed of until the application has been determined; or
- (b) disallowing the possessor's costs in whole or in part.

Part 4 Goods found on Territory premises or property

27A Application of pt 4

This part does not apply to premises in respect of which the commissioner for housing is the lessor under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.

28 Goods lost or abandoned on Territory controlled premises etc

Where goods that a reasonable person would believe have been lost or abandoned are found on premises, or in an aircraft, vessel, vehicle, container or receptacle under the control of the Territory, the person who found the goods shall place them in the possession—

- (a) of a public employee who appears to be in charge of the place where the goods were found; or
- (b) of a police officer.

29 Disposal of goods found on Territory controlled premises

- (1) Where goods have been placed in the possession of a public employee under section 28 (a), the Territory may—
 - (a) in the case of perishable goods—dispose of them at any time by appropriation or destruction; or
 - (b) in the case of any other goods—dispose of them by sale at any time after a period of 3 months commencing on the day on which they were placed in the possession of that employee.

- (2) Goods shall not be sold under subsection (1) (b) if it would be impracticable or undesirable in the public interest to do so.

Part 5 Miscellaneous

30 Proceeds of sale

- (1) The possessor may retain from the proceeds of the sale of any goods under part 3—
 - (a) the reasonable costs incurred by the possessor in complying with this Act; and
 - (b) the reasonable costs incurred by the possessor in storing and maintaining the goods prior to sale; and
 - (c) the amount secured by any lien under the *Mercantile Law Act 1962* that the possessor has over the goods; and
 - (d) the amount of any unpaid rent the owner owes to the possessor.
- (2) Any balance of the proceeds remaining after the possessor has retained an amount under subsection (1) is payable to the Territory who shall pay the money into a trust bank account.
- (3) The Territory may pay into the territory banking account from the proceeds of the sale of any goods under section 29 (1) (b) an amount equal to the reasonable costs incurred by the Territory in—
 - (a) storing and maintaining the goods prior to sale; and
 - (b) selling the goods.
- (4) The balance of the proceeds remaining after the Territory has retained an amount under subsection (3) shall be paid into a trust bank account.
- (5) Interest received from the investment of any money paid into a trust bank account under subsection (2) or (4) shall be used—
 - (a) to meet any costs of administering money paid into the account under subsection (2) or (4); or

(b) for any other prescribed purpose.

- (6) Any money paid into a trust bank account under subsection (2) or (4) shall, on the expiry of the period of 3 years after the date on which the money was so paid, be deemed to be interest for subsection (5).

31 Payments by Territory

- (1) Where the Minister is satisfied that prior to the sale of any goods under part 3 or section 29 (1) (b), a person had an interest in those goods, the Minister may pay to that person the whole or any part of the balance paid to the Minister in respect of the sale of those goods under section 30 (2) or (4).
- (2) The Minister may only make such a payment if the person makes a claim for payment before the period referred to in section 30 (6) expires.
- (3) The Minister may make a payment referred to in subsection (2) even if the period referred to in section 30 (6) has expired before the claim is decided.

32 Protection of possessors

- (1) No action shall lie against a possessor by reason of the taking or giving of possession, or the sale, appropriation or destruction, of goods under this Act.
- (2) A possessor acting under this Act is not liable for any reasonable damage caused by the removal or retention of goods.

33 Rights not to be affected

Nothing in this Act abrogates, limits or in any manner affects—

- (a) any lien, power of sale or other right (whether arising under contract or by operation of law) that a possessor may have apart from this Act with respect to any goods possessed by him or her; or

- (b) the enforcement of such a lien or the exercise of such a power or right.

34 Evidence

In proceedings for an offence against this Act, a certificate signed by the chief executive stating that land specified in the certificate is unleased land is evidence of that matter.

35 Title

A person who acquires goods that are sold or disposed of under this Act acquires title to the goods free of any mortgage, lien or charge in favour of another person affecting the goods of which the person who acquires the goods was unaware at the time of the acquisition.

36 Mode of disposition

Nothing in this Act shall be taken as authorising a mode of disposition of goods that would otherwise be contrary to another law of the Territory.

37 Request provisions—substantial compliance

Unless the contrary intention appears, strict compliance with the provisions relating to the making of an instrument under this Act is not necessary and substantial compliance, or such compliance as the circumstances of a particular case allow, is sufficient.

38 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Uncollected Goods Act 1996 No 86

notified 20 December 1996 (Gaz 1996 No S328)
s 1, s 2 commenced 20 December 1996 (s 2 (1))
remainder commenced 19 March 1997 (s 2 (2) and Gaz 1997 No S71)

as amended by

Residential Tenancies (Consequential Provisions) Act 1998 No 4 sch

notified 25 May 1998 (Gaz 1998 No S150)
sch commenced 25 May 1998 (s 2)

Law Reform (Miscellaneous Provisions) Act 1999 No 66 sch 3

notified 10 November 1999 (Gaz 1999 No 45)
sch 3 commenced 10 November 1999 (s 2)

Road Transport Legislation Amendment Act 1999 No 79 sch 3

notified 23 December 1999 (Gaz 1999 No S65)
sch 3 commenced 1 March 2000 (s 2 and see Gaz 2000 No S5)

Legislation (Consequential Amendments) Act 2001 No 44 pt 399

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 399 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Stock Act 2005 A2005-19 sch 1 pt 1.3

notified LR 13 April 2005
s 1, s 2 commenced 13 April 2005 (LA s 75 (1))
sch 1 pt 1.3 commenced 26 August 2005 (s 2 and CN2005-13)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.4145

Application of Act

s 3 am A2005-19 amdt 1.3

Meaning of uncollected goods

div 2.1 hdg (prev pt 2 div 1 hdg) renum R2 LA

Goods not collected when requested

div 2.2hdg (prev pt 2 div 2 hdg) renum R2 LA

Goods found at public baths

div 2.3 hdg (prev pt 2 div 3 hdg) renum R2 LA

Goods found on public or unleased land

div 2.4 hdg (prev pt 2 div 4 hdg) renum R2 LA

Application of div 2.4

s 13 am 1998 No 4 sch

Goods lost or abandoned on public or unleased land

s 14 am 1999 No 79 sch 3

Authorised officers

s 16 am 1999 No 66 sch 3

Retention areas

s 17 sub 2001 No 44 amdt 1.4146

Mode of disposition

div 3.1 hdg (prev pt 3 div 1 hdg) renum R2 LA

Sale of goods

div 3.2 hdg (prev pt 3 div 2 hdg) renum R2 LA

Claims by owners

div 3.3 hdg (prev pt 3 div 3 hdg) renum R2 LA

Application of pt 4

s 27A ins 1998 No 4 sch

Regulation-making power

s 38 am 2001 No 44 amdt 1.4147

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	A1999-79	30 April 2000
2	A2001-44	13 December 2001

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