

Unclaimed goods

What are unclaimed goods?

Unclaimed goods are things which have come into your possession but legally belong to someone else. If you sell or dispose of these goods without the owner's consent you are committing a criminal offence. The Unclaimed Goods Act 1987 (SA) sets out a procedure to dispose of the goods. The Act calls the owner of the goods the 'bailor' and the holder of the goods the 'bailee'.

Returning the goods

One option is to deliver the goods to their legal owner. You cannot charge the owner for the cost of delivery.

If this is not possible or practical you must follow the steps set out below.

Setting a Collection Date

Before you can start the process of disposing of the goods a 'collection date' must have passed. If you have some arrangement with the owner, the collection date is either:

- a date the owner agreed to collect the goods, or
- a date you agreed to deliver the goods.

If you have not arranged for the collection of the goods, you must write to the owner at their last known address, asking them to collect the goods (with the details that are set out in schedule 1 of the regulations).

If you do not know who the owner is or where they live you must put an advertisement as set out in schedule 1 in the public notices of a widely circulated newspaper, e.g. 'The Advertiser'. Then, if the owner does not contact you to

collect the goods, you must wait 42 days before you can proceed to the next step.

Waiting

You must wait at least 3 months after the collection date before you can sell or dispose of the goods. You must give the owner a "reasonable opportunity" to collect the goods.

Disposing of the goods

You may sell the goods, but if the cost of selling the goods would be more than their value, the goods may be disposed of by other means. Where you can reasonably sell the goods you should do so, or you may be forced to pay the owner the value of the goods. Depending on the value of the items, they may be sold or disposed of in one of the following ways:

Value under \$500 – sold or disposed of by any method

Value of \$500 up to \$2,000 – you may sell them by public auction after you have notified the Commissioner of Police and the owner of the goods at least one month before the auction (as set out in schedule 2 of the regulations). If you do not know who the owner is or where the owner lives you must put an advertisement in the public notices of a widely circulated newspaper, e.g. 'The Advertiser' as set out in schedule 2. Alternatively, you can apply to the court (see 'value \$2,000 or more' below).

Value \$2,000 or more – you must apply to a Magistrates Court for permission to sell the goods. Copies of the application to the court must be given to the Commissioner of Police, the owner and to anyone else the court directs. The District Court or Supreme Court must give permission for goods valued \$100,000 or more.

Unclaimed goods

What money can I keep?

- Any costs you have actually incurred after the collection date. For example, the cost of advertising the sale and the reasonable costs of storing and maintaining the goods before sale.
- Any 'lien' you have over the goods (You may have a lien where the owner of the goods owes you money for any work or improvements done).

Any money left over after these costs are paid must be paid to either the owner or to the State Treasurer.

Any interest you may hold in the goods, such as your contribution to the purchase price may, on application to the Treasurer, be paid back to you.

If the owner demands their goods back

The owner can demand their goods any time before they are sold but you can demand your costs (see What money can I keep). You must send the owner a written account of the costs you are claiming, and if the costs are not paid within 42 days of receiving the account, the goods can be sold. An owner who disagrees with any costs claimed should apply to the court to review the account. The goods cannot be sold before the court has decided the matter.

Unclaimed goods on rental properties

There are different procedures for dealing with goods that have been left by tenants.

For further information about what to do in this situation, telephone the Tenancies Branch, Consumer and Business on 131 882 or visit their website at www.cbs.sa.gov.au.

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Schedule 1 - Notice of request for collection of goods

(Section 5 of Act)

NOTICE is given:

1. That (name of bailee) of (address of bailee) is in possession of the following goods:
.....
..... (description of goods)
2. That (name of bailor, if known) of
..... (address of bailor) or such other person as may be the owner of the above goods, is requested to collect the goods within 42 days of the date of this notice.
3. That the goods are available for collection at (address) at the following times, or between the following hours: (times or hours)
4. That if the goods are not collected by the due date, the bailee may, after three months, proceed to sell or dispose of the goods in accordance with the Unclaimed Goods Act 1987.

Dated the day of 20

Schedule 2 - Notice of proposed sale of goods

(Section 6 of Act)

NOTICE is given:

1. That (name of bailee) of (address of bailee) is in possession of the following unclaimed goods:
.....
..... (description of goods)
2. That (name of bailor) of
..... (address of bailor) is the bailor of the goods.
3. That the bailee proposes to sell the goods at public auction to be held at
..... (auction address) on (day) the
..... day of 20 at (time)
4. The bailor may collect the goods before they are sold at
..... (address) at the following times, or between the following hours (times or hours)

Dated the day of 20

This information is general and not a substitute for legal advice. The Legal Services Commission provides free advice for most legal problems. 10/23