

DRAFT SECOND READING SPEECH

HON. SARAH COURTNEY MP

Disposal of Uncollected Goods Bill 2019

check Hansard for delivery

Madam Speaker, I move that the Bill now be read a second time.

The Government is always mindful of the regulatory burden that is daily placed on the shoulders of businesses, in particular small business, in complying with the raft of regulations that affect their activities.

Outdated or unnecessarily complex rules can be a significant burden for Tasmanian businesses, while conversely we are also aware of the need to create clear and workable arrangements to protect the interests of consumers.

Madam Speaker, this Bill achieves a fair and practical balance between meeting the needs of businesses in dealing with the disposal of uncollected goods, and protecting ordinary consumers who are often unfamiliar with their legal rights and remedies.

We have listened to stakeholder concerns regarding the current arrangements, and sought to contemporise the law and bring our requirements into line with other jurisdictions.

The Bill introduces a model similar to legislation operating successfully in Victoria, where a simple and cost-effective method of disposal of goods left at business premises is determined by the value of individual goods.

This position has been endorsed by the Red Tape Reduction Coordinator, as outlined in the 2017-18 Tasmanian Red Tape Audit Report.

The Coordinator recommended that the legislation was in need of reform, and a model could be adopted where goods are disposed of relative to their value.

Consequently, the Bill repeals the outdated *Disposal of Uncollected Goods Act 1968* and replaces it with modern legislation, which provides appropriate and contemporary mechanisms for the way businesses can deal with situations where consumers fail to pay or collect goods that have been left at business premises.

Where contracting parties have not made arrangements for the collection of goods, which remain uncollected after specified periods, this Bill will make it simpler and more cost-effective for businesses to dispose of those goods and recoup any costs or financial losses associated with repairs, storage or insurance.

Examples of situations where a business has not received payment for their services and then is required to store those uncollected goods include:

- A towing business picking up a damaged car, but is not told by the owner what to do with it and it remains unclaimed;
- Clothes left for dry-cleaning that are forgotten and never collected; or
- A motor mechanic who is asked to repair a car, but the owner never returns to pick it up and pay for the work done.

It is for these types of situations why clear and appropriate mechanisms are required, and why we are introducing this Bill.

Madam Speaker, I will now turn to some of the key features and reforms made in the Bill.

This Bill introduces new provisions to specifically address uncollected motor vehicles and perishable items.

Motor vehicles are treated differently from other goods in the Bill, as they are larger and often more expensive than other uncollected goods. This means that storage costs are significant for businesses that may not have the available space.

While the business may recoup these costs upon selling the vehicle, a vehicle in a deteriorated state may not cover the total cost of storage, sale and work done on the car.

To address these issues, the Bill provides for the process that a business must go through before selling or disposing of the vehicle, including:

- conducting a personal property securities search to assess whether there are any secured or registered interests in the vehicle, and
- providing a receipt to the purchaser containing specified details, including the name of the owner of the vehicle and the registration or identification number.

Further, there is a need to treat perishable goods differently to other items, due to the nature of the goods having a limited handling and storage time until expiration.

Other jurisdictions, including the Northern Territory, the Australian Capital Territory, Victoria and New South Wales have provisions for perishable goods in their legislation in order to accommodate for the limited lifespan of the goods.

We have adopted a similar approach in the Bill, by introducing a new provision specifically dealing with the disposal of perishable goods.

In addition, the Bill also introduces simplified procedures for the disposal of all other types of uncollected goods.

This includes provisions that where goods have been left uncollected for specified periods of time, they may legally be disposed of by businesses.

Before disposal, a clearer and simplified “goods disposal notice” must be sent to the consumer, which will serve to protect the interests of both parties.

There is also no longer a requirement to notify the Commissioner of Police prior to the disposal of goods.

Madam Speaker, the method of disposal available to businesses has also been amended in the Bill.

Currently, businesses are required to only sell goods at a public auction, and must be retained for a total period of seven months, regardless of whether the goods are low or high value.

The Bill amends these provisions by providing the ability for private sales to be used, even for high value goods, if it is the best method of disposal in the circumstances to achieve a fair market value.

The required holding period that businesses must retain the goods has also been shortened.

The exact method of disposal is determined by the procedures in the Bill and the individual value of the goods, which is achieved through the introduction of “value categories” of goods, with different procedures for the disposal of each category.

For example, for uncollected goods valued at less than \$200, a business may dispose of the goods after 28 days if the consumer is provided a goods disposal notice, and does not claim them.

In the event that the business is unable to locate or communicate with the consumer to give them notice of the intention to dispose, the business needs to wait 60 days from the time they became uncollected.

After the holding periods have passed, the goods can be disposed of by the business, using any appropriate means.

Importantly, the Bill provides legal protections for any party involved in the transaction for the goods to be disposed:

- A purchaser receives “good legal title” to goods sold under the Act, which is free from any claim.
- A business that disposes of uncollected goods is not liable to others by reason of their disposal of those goods.
- Any money left over after the business sells uncollected goods and collects their charges and disposal costs, is then ‘unclaimed money’ to be dealt with under the *Unclaimed Money Act 2015*.

In order to protect the interests of both the business and the purchaser of the goods, businesses must keep clear and simpler records of how uncollected goods were disposed of.

For low value goods, the required record keeping period has been reduced from six years to two years.

The Bill also introduces the ability of the Director of Consumer Affairs and Fair Trading to make Determinations about certain matters, such as:

- Keeping the threshold dollar value of the “value categories” up to date;
- Deciding what are appropriate methods to determine the value of certain goods.

An example of using this approach would be an approval of a recognised motor industry price guide as being a fair means to determine market values of motor vehicles, rather than only relying on the seller's judgement.

To communicate the requirements of the new Bill to businesses and consumers, an education campaign will be initiated by Consumer, Building and Occupational Services.

It is important to ensure that Tasmanian businesses and consumers alike fully understand their rights and responsibilities when it comes to dealing with uncollected goods.

Madam Speaker, this Bill updates the legislative requirements to make it easier for Tasmanian businesses to dispose of uncollected goods, while ensuring there are appropriate protections for consumers.

These sensible reforms not only reduce regulatory burdens for business, but importantly modernises the rules and improves processes.

Madam Speaker, I commend this Bill to the House.