

**DISPOSAL OF UNCOLLECTED GOODS AMENDMENT BILL 2015**

*Second Reading*

Resumed from 12 October.

**HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition)** [5.09 pm]: On behalf of the opposition, I indicate that we support the Disposal of Uncollected Goods Amendment Bill 2015. It is a relatively straightforward piece of legislation. It inserts the new term “relevant amount” into the act and it increases the value of uncollected goods that may be disposed of from \$300 to \$3 500. I understand that the figure of \$300 has been in place since 1970. We have had a couple of bills today in which the theme is modernising and bringing things into the new age.

The Disposal of Uncollected Goods Act 1970 establishes procedures for the disposal of goods that have been taken to a business for purposes such as repair or storage and have remained uncollected by their lawful owner. The act has different requirements or procedures for the treatment of uncollected goods depending on whether their value is above or below the relevant amount. There are also requirements for dealing with uncollected goods. However, these do not apply to goods left behind at the end of a residential tenancy. Three areas are not picked up in this bill—residential tenancies, unsolicited goods sent to a consumer and goods left with a pawnbroker. Those three areas are exempted. Businesses disposing of uncollected goods valued at less than \$3 500 will not have to obtain a court order to sell or dispose of the goods unless the owner issues a notice of dispute and the parties cannot resolve the dispute. For goods valued above the relevant amount, businesses are required to notify the owner of the goods that the goods may be collected; and, again, after six months notify the owner of the goods and place a notice in both a newspaper and the *Government Gazette*. I would have thought, given our earlier debate, that putting ads in a newspaper might be a bit passé and the department might think about more modern alternative mechanisms. I am not too sure what they would be in this case. One month after businesses have put notices in either a newspaper or the *Government Gazette* that they will be seeking a court order to dispose of the goods, they have to seek an order from the Magistrates Court to allow them to lawfully sell or dispose of the uncollected goods. The various procedures under the act for disposing of uncollected goods under the act can be costly and time-consuming. In our view, it is appropriate to increase the threshold value of an uncollected good from \$300 to \$3 500. It will reduce the cost for bailees—those holding the uncollected goods—when disposing of uncollected goods valued at less than \$3 500. The reference provided in the second reading speech was car repair places, such as a panelbeater or some other repair business, and the owner of the car simply does not come back to collect the vehicle. In some cases, if it is an old bomb, the value might not be there and the business has to hold onto it and deal with it.

The only other comment I wish to make relates to schedule 1 of the act. I had a look at it the other day. It provides a list of the types of goods that would be picked up by the act. It really reflects the era back in 1970 when the original legislation was drafted and the examples are perhaps things that our friends might refer to as antiques these days. I thought the types of goods that are picked up were fairly standard until we get to radiograms, record-players, tape recorders and typewriters. I do not know whether those things need to be excluded. People might treat them as collector’s items these days rather than standard products.

The other schedules simply relate to the forms. Will the forms set out in schedule 2 be available online? If we are going to modernise and change the figures, is the government also looking at modernising the form of communication and access to information and the forms required to be used rather than simply accessing hard copy?

Other than those couple of probably frivolous comments around the two schedules, it is a sensible piece of legislation. It is just about updating the figures. Given that it has been 46 years since the act was enacted, it is probably about time the amounts were changed. Without any further ado, we have nothing more to say other than that we support the bill.

**HON RICK MAZZA (Agricultural)** [5.15 pm]: I rise to say that the Shooters, Fishers and Farmers Party also supports the Disposal of Uncollected Goods Amendment Bill 2015. As I mentioned earlier during debate on the Residential Tenancies Amendment Bill 2015, the disposal of uncollected goods can be an onerous impost on property owners or motor vehicle dealers, which was the example given in the explanatory memorandum. For goods valued over \$300, which would not be too much these days, people have to notify the owner of the goods that the goods may be collected, and, after six months, notify the owner again, if they can be found; and, furthermore, they have to place a notice both in the newspaper and the *Government Gazette* that they will be seeking a court order to dispose of the goods. One month later, they would seek an order from the Magistrates Court to allow them to lawfully sell or dispose of the goods. It is a very onerous, complicated and expensive process to dispose of goods valued at over \$300. If something is valued at \$350, one is supposed to go through that whole process. I would argue that many people would probably ignore that process if something is worth only \$400 or \$500.

Essentially, this bill will increase the amount from \$300 to \$3 500, which has been calculated using the rate of inflation since 1970, some 46 years ago. I would hazard a guess that \$3 500 is still not a lot of money, but people will have to go through that process. Perhaps a higher amount than \$3 500 could have been used to properly reflect the process that one has to go through and the cost of going to the Magistrates Court to dispose of goods.

I also welcome that the amount can be amended by regulation. It has been 46 years since this legislation was enacted, and \$300 is certainly not worth what it was in 1970. It is a bit of a shame that it has taken 46 years to change that figure of \$300. It has been a very long time. The ability to change that figure by regulation to keep up with inflation and changing times will also be welcomed by business.

With those final remarks, we support the bill.

**HON ROBIN CHAPPLE (Mining and Pastoral)** [5.18 pm]: The Greens will certainly be supporting the Disposal of Uncollected Goods Amendment Bill 2015. Quite clearly, it is long overdue. I am intrigued about one aspect of the bill—that is, clause 4, “Section 4 amended”. Clause 4(3) states —

In section 4(1) in the definition of **prescribed goods** delete “regulation; and” and insert:  
regulation;

I assume that the regulation-making power will be available only to lift the prescribed fee based on the consumer price index and not any other factor. It would obviously be of some concern if those fees were raised in any other manner. Quite clearly, it is outdated and causes a lot of grief for business owners in a range of areas, not least, as Hon Rick Mazza has just identified, the car repair market. In many cases a considerable amount of expenditure is made well above the value of a vehicle in trying to stick to the letter of the law. Raising that amount to \$3 500 is a good outcome. The key issue I really want to make sure about is that the regulation-making power will not be able to name some arbitrary figure other than that defined by the consumer price index. I am assuming it will be calculated on the basis of the CPI, because we are seeking here to raise the figure of \$300 to the new figure of \$3 500. From the briefing we had, we understood that that adjustment was made, to a large degree, on CPI over the period from the introduction of the act to the current date. With those comments, and a request for some clarification from the minister about the regulation-making power, we will support the Disposal of Uncollected Goods Amendment Bill 2015.

**HON MICHAEL MISCHIN (North Metropolitan — Minister for Commerce)** [5.21 pm] — in reply: I thank members for their indication of support for this rather modest Disposal of Uncollected Goods Amendment Bill 2015. This bill seeks to update some figures that are almost half a century out of date. Apropos of Hon Robin Chapple’s comments, which particular regulation-making power was he referring to? Which provision in the bill?

**Hon Robin Chapple:** I had put my copy of the bill away. In essence, it is if you go to clause 4—sorry, I am just quickly turning to the relevant page—“Section 4 amended”, which states at subclause (3) —

In section 4(1) in the definition of prescribed goods delete “regulation; and” and insert —  
regulation;

However, in the actual —

**The ACTING PRESIDENT (Hon Simon O’Brien):** Order! The minister has the call, and he is to be the only member on his feet at this stage. Brief interjections are one thing, but the member with the call is the minister.

**Hon Robin Chapple:** He was asking me a question.

**Hon MICHAEL MISCHIN:** I did invite the interjection, thank you, Mr Acting President, and I regret putting Hon Robin Chapple in that position.

**The ACTING PRESIDENT:** You cannot invite a speech.

**Hon MICHAEL MISCHIN:** No, I accept that, but I was hoping that he might be able to direct me to the particular provision that he was talking about.

In essence, this bill lifts the threshold with a rule-of-thumb calculation about what the value of \$300 might be in contemporary currency, and provides that that amount can be amended from time to time into the future by way of regulation. I am a little unclear about what fee was being referred to or charged. Maybe I misunderstood what the honourable member was talking about, but this bill is about allowing, by regulation, the change to the threshold for qualification for the process that needs to be undertaken within the act. The intention would be to, from time to time, review that amount and adjust it accordingly. It may be that it is done on an annual basis. I would think that unlikely, and that rather it would be after a period of time over which it becomes readily apparent that the value of money has changed and that the threshold needs to be reassessed. It is not like some of the other provisions that we

have dealt with more recently, when inflation needs to be kept pace with. This is a rather arbitrary value in any event, so it would not need annual attention, but can be addressed from time to time.

So far as Hon Kate Doust's comments are concerned, the act is under review. Plainly, the processes here need to be examined to determine, apart from anything else, the utility of using non-electronic means to alert people to the fact that their uncollected goods may be subject to the processes in the act. That review, I understand, will be underway by early next year, and it may be that some more radical amendments will change the processes under the act. However, this bill is intended to address a more immediate concern that has been drawn to the attention of the government by, amongst others, the Motor Trades Association. It constitutes a burden on their businesses, in which they repair vehicles and are often left with "junkmobiles" that simply have no value at all, but they have to go through the processes under the act simply because the vehicle may have a scrap value of more than \$300. This is a more realistic amount to balance the rights of the owner of the property, against the rights to do something with it when it has been abandoned or when someone has not been prepared to pay the price of the repair, leaving the repairer with the problem of not only not being paid, but also an uncollected good. That review, like a number of other reviews, will take a bit more time and consultation to refine the processes. In the meantime, I thank honourable members for their contributions to the debate, and commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

*Committee*

The Deputy Chair of Committees (Hon Simon O'Brien) in the chair; Hon Michael Mischin (Minister for Commerce) in charge of the bill.

**Clause 1: Short title —**

**Hon ROBIN CHAPPLE:** I think it is most probably easier for me to deal with this issue in relation to clause 1, if I may. In terms of the regulation-making power, is there any limit on what that figure can be set at by regulation, or will it just be some decision by the minister of an arbitrary breakaway fee at some stage in the future? Could the amount, by regulation, be suddenly turned into \$35 000? What controls on those regulation-making powers might there be in the future?

**Hon MICHAEL MISCHIN:** More general regulation-making powers are contained in section 35 of the principal act, but this bill prescribes that the relevant amount will be \$3 500 or such other amount as is prescribed by regulation. No cap or restriction is put on that. However, it being by regulation, it would be referred to the Joint Standing Committee on Delegated Legislation and would be the subject of disallowance if it is beyond the power of the Disposal of Uncollected Goods Act, or, otherwise, political scrutiny within this place were some outrageous figure to be selected as the threshold. It will always be a matter of judgement about what ought to be the threshold for these sorts of things, and I have indicated that it is not something that would be done necessarily on an annual basis, but simply as it were thought that the threshold amount fell out of sync with the value of goods that by and large needed to be disposed of under the processes of the act. No, there is no limit, strictly speaking.

**Hon ROBIN CHAPPLE:** I suppose the first thing I need to do is thank the minister for his answer. I am concerned that, notwithstanding the terms of reference of the Joint Standing Committee on Delegated Legislation, it may not be, depending on how the regulation is written and the amount prescribed, that the delegated legislation committee is able to deal with this matter. That committee looks at whether regulations raise taxes that are unfair or unreasonable and whether those raises are above the consumer price index and those sorts of things. The terms of reference would enable the delegated legislation committee to look at it, say, if it suddenly went to \$70 000, but then it might be difficult, even if it is delegated legislation, for the committee to make some evaluation of that. That was the point I was raising.

I thank the minister for his answer. This is now on the public record, so one would hope that those fees would, if and when amended by regulation, take into account the values of the community at that time.

**Hon MICHAEL MISCHIN:** I want to make it clear, because the honourable member is using a couple of terms that would suggest an element of confusion. It may not be; it just may be infelicitous phrasing. No tax, fee or charge is involved. This is not an imposition on anyone.

**Hon Robin Chapple:** I understand that.

**Hon MICHAEL MISCHIN:** There is no revenue raising; it is simply a threshold as to the value of the goods concerned that requires compliance with the rather detailed and stringent processes provided for by the legislation so that the goods can be disposed of, and an element of judgement will always be involved. The usual

processes behind the scenes will mean that the minister will receive advice through the department indicating that a problem has been identified, that the value of a lot of goods is above the threshold and that that issue needs to be addressed and a recommendation made about what the threshold ought to be. Generally, that recommendation will be based on some form of consultation with those who deal with these matters as a matter of course—the industries concerned and things of that nature—plus an element of commonsense. A recommendation will be put to the minister that the regulations be amended accordingly and the minister will again, hopefully—certainly if it is me—turn his mind to it and decide whether it passes the pub test. It is not arbitrary. However, I stress again that this is a threshold; it is not an imposition of any fee or charge on anyone. There is no question of raising any taxes or levies or anything of that nature. The review of the act will no doubt reveal other improvements that can be implemented in due course.

**Clause put and passed.**

**Clauses 2 to 10 put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by **Hon Michael Mischin (Minister for Commerce)**, and passed.