

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1921.

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## A BILL

To provide for the disposal of unclaimed articles left with certain tradesmen for repair or storage; and for purposes connected therewith.

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "Unclaimed Short title, Articles Act, 1921."

22031

298—(3)

**2.**

**2.** This Act shall commence upon a date to be proclaimed by the Governor and published in the Gazette. Commencement.

**3.** In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

“Article” includes every species of chattels and goods whatsoever.

“Prescribed” means prescribed by this Act or by any regulation made thereunder.

“Tradesman” means a person belonging to any of the classes mentioned in the Schedule hereto, and includes the executor, administrator, and assignee of such person: provided that the Governor may by proclamation in the Gazette add to or alter such Schedule.

**4.** Every tradesman, who desires to obtain the benefit of this Act, shall at the time when he receives any article for repair or storage— Duty of tradesman to enter certain particulars in a book and give depositor a ticket.

(1) enter in a book to be kept by him for that purpose—

(a) the full name and address of the owner of the article;

(b) a description of the article;

(c) the date of the receipt of the article;

(d) the sum to be charged by the tradesman for the repair or storage of the article;

(e) the time within which the article may be claimed before it becomes liable to be sold under this Act (such time being, in the absence of other agreement in writing, *three* months after receipt, in the case of an article received for repair, and *six* months after receipt, in the case of an article received for storage); and

(f) such further particulars (if any) as may be prescribed; and

(2) supply to the depositor of the article a ticket in the prescribed form, containing a duplicate of such entry and signed by the tradesman or by an assistant authorised by him in that behalf.

**5.**

**5.** Where before the commencement of this Act an article has been received by a tradesman for repair or storage and the sum charged for such repair or storage, or any portion of such sum, has been for a period of not less than twelve months, and still is, due and unpaid, the tradesman may, if the article is still in his possession, sell the same under and subject to the provisions of this Act.

Power of tradesman to sell goods deposited before commencement of Act.

**6.** Where after the commencement of this Act an article is received for repair or storage by a tradesman who has complied with the provisions of section four of this Act, and the sum charged for such repair or storage, or any portion of such sum, is at the expiration of the period hereinafter specified due and unpaid, the tradesman may, if the article is still in his possession, sell the same under and subject to the provisions of this Act—

Power of tradesman to sell goods deposited after commencement of Act.

- (a) at the expiration of a period of *three* months after the date when such sum became due and payable, where he is a tradesman coming within Part One of the Schedule hereto; and
- (b) at the expiration of a period of *six* months after such date, where he is a tradesman coming within Part Two of such Schedule.

Such sum shall for the purposes of this section be deemed to be due and payable at the expiration of the time, as fixed by section four of this Act, within which the article may be claimed.

**7.** An article received for repair or storage shall not be sold under this Act unless notice in the prescribed form of the proposed sale is served upon the owner of such article not less than fourteen days before publication of the advertisement hereinafter prescribed. The owner shall be served personally, or if personal service cannot be effected, he shall be served by registered letter addressed to his last known place of abode.

Owner to be served with notice of sale.

**8.** (1) Such sale shall be by public auction: and an advertisement thereof, stating that such sale is under the provisions of this Act and containing a description of the article to be sold, shall be published in a newspaper circulating in the district in which the sale is to take place not less than four days before the proposed date of sale.

Mode of sale.

(2)

(2) A tradesman who has received any article for repair or storage shall not purchase such article at such sale.

(3) A purchaser of such article at such sale shall have a good title to the same, and shall not be bound to inquire whether the provisions of this Act have been complied with.

(4) The tradesman may, out of the proceeds of such sale, retain the sum due to him in respect of the repair or storage of the article sold and all reasonable charges and expenses incurred by him in connection with such sale.

(5) The surplus (if any) after the deduction of such sum and of such reasonable charges and expenses shall, if claimed within six months after such sale, be handed over forthwith by the tradesman to the owner of the article or to his executor, administrator, or assignee together with a detailed statement of account signed by the tradesman or his authorised agent, showing how such surplus has been arrived at.

(6) Any such surplus not claimed within such time shall be handed over forthwith by the tradesman to the Colonial Treasurer together with a statement of account as aforesaid, and such surplus shall be carried to the Consolidated Revenue Fund :

Provided that at any time within six years after the date of such payment the Colonial Treasurer may, on application made by the owner or his executor, administrator, or assignee, and supported by such proof as the Colonial Treasurer may deem sufficient, refund to the applicant the surplus so paid, but without interest thereon.

9. (1) Every tradesman who sells an article under this Act shall enter in a book to be kept for that purpose—

- (a) the full name and address of the late owner of the article ;
- (b) a description of the article ;
- (c) the date of the sale of the article ;
- (d) the full name and address of the purchaser ;
- (e) the amount of the purchase money ;

Particulars of sale to be entered in book kept for the purpose.

(f)

(f) the sum retained by the tradesman for the repair or storage of the article and for the charges and expenses incurred in the sale thereof; and

(g) such further particulars (if any) as may be prescribed.

(2) The owner of any article so sold, or his executor, administrator, or assignee, shall be permitted to inspect any such entry—

(a) on production of the ticket given in accordance with section four of this Act; or

(b) where such ticket cannot be produced, on production of a statutory declaration satisfactorily accounting for the non-production of such ticket.

**10.** (1) If the business of a tradesman, in the course of which any article is received by him for repair or storage, ceases to be carried on, such tradesman shall forthwith hand over to the Public Trustee all books required to be kept by him under the provisions of section four and section nine respectively.

Books specified in sections 4 and 9 to be handed over to Public Trustee on cessation of business.

(2) The Public Trustee may, at the expiration of *ten* years after the receipt by him of any such book, destroy the same.

**11.** Any person failing to comply with any provision of this Act, or knowingly making any false or misleading entry, shall be liable to a penalty not exceeding *fifty* pounds. Any penalty imposed by this Act or by any regulation thereunder may be recovered in a summary way before a stipendiary or police magistrate, or any two justices in petty sessions.

Penalties.

**12.** (1) The Governor may make regulations prescribing the forms which may be used under this Act, and generally all matters necessary or expedient for carrying out the provisions and purposes of this Act; and in such regulations may impose penalties not exceeding *twenty* pounds for any breach thereof.

Regulations.

(2) Such regulations shall—

(i) be published in the Gazette;

(ii) take effect from the date of publication, or from a later date to be specified in such regulations; and

(iii)

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- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution, of which notice has been given, at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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SCHEDULE.

PART ONE.

Watchmakers and Jewellers.  
Electroplaters.  
Picture Framers.  
Boot Repairers.  
Dyers and Cleaners.  
Hat Cleaners.  
Furriers.  
Laundrymen.

PART TWO.

Shipping and Forwarding Agents.  
Bond and Free Storers.  
Master Carriers.  
Storers and Removers of Furniture.

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