

Western Australia

## **Unclaimed Money Act 1990**

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## Unclaimed Money Act 1990

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Western Australia

## **Unclaimed Money Act 1990**

**An Act to provide for the advertisement of unclaimed money and of certain prescribed retained money, for the payment of that money into and out of the Consolidated Account, to repeal the *Unclaimed Moneys Act 1912*, and for related purposes.**

*[Long title amended by No. 6 of 1993 s. 11; No. 77 of 2006 s. 4.]*

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Unclaimed Money Act 1990*<sup>1</sup>.

### **2. Commencement**

The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation<sup>1</sup>.

### **3. Interpretation**

(1) In this Act, unless the contrary intention appears —

**“claim”**, in relation to any account or deposit, includes any payment in or withdrawal or any instruction given;

**“disbursable”**, in relation to prescribed retained money, has the meaning given in section 10(2);

**“holder”**, in relation —

(a) to unclaimed money, includes a person who is by section 7 taken, or deemed, to be for the purposes of this Act the holder; and

(b) to prescribed retained money, means the person who holds the money under the written law by virtue of which the money is for the purposes of section 9 to be taken to be prescribed retained money;

**“owner”**, in relation to any unclaimed money or prescribed retained money, means a person who is entitled to that money, or to possession or control of that money as against the holder, and a reference to the owner includes a reference to —

(a) a person acting for or on behalf of the owner;

(b) the personal representative of a deceased owner; or

(c) any other person lawfully claiming an interest, derived through the owner;

**“prescribed retained money”** means money to which section 9 applies;

**“the repealed Act”** means the *Unclaimed Moneys Act 1912*;

**“unclaimed money”** means money to which section 6(1) applies, and a reference to unclaimed money includes a reference to —

- (a) money deemed to be unclaimed money by the operation of section 7(2) or (3) or section 10(1); and
- (b) money to which section 13(2) applies.

(2) References in this Act —

- (a) to money, include the principal and, subject to section 16(1), any interest paid or payable in relation to that money;
- (b) to interest, include any amount in the nature of interest, and any dividend, bonus or profit derived from the principal; or
- (c) to money which is held, include an amount which although not in the possession of the holder is subject to the control of the holder,

and “holder”, and any other cognate expression, is to be interpreted accordingly.

(3) For the purposes of this Act, money may be taken to be liable to be paid notwithstanding that, as between a holder and an owner, a notice or demand would be required before that money became owed or payable.

#### **4. Application**

(1) This Act applies —

- (a) to money payable voluntarily to the Treasurer under this Act;
- (b) to money which is unclaimed money and is, or may be required to be, paid to the Treasurer under this Act; and

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- (c) to prescribed retained money, subject to any trust or other specific requirement affecting the disposal of that money which is imposed by the written law by virtue of which that money is to be taken for the purposes of section 9 to be prescribed retained money.
- (2) Where a holder pays money to the Treasurer in accordance with this Act, the holder in respect of the money so paid shall, subject to section 7(2), thereafter be relieved of all further liability to any person claiming as owner, notwithstanding that any relevant period of limitation in respect of a claim to which that money relates has not expired.
- (3) This Act does not apply to or in relation to money to which —
  - (a) any of the following provisions of Acts of the Commonwealth apply, namely —
    - (i) section 53 of the *Commonwealth Banks Act 1959*;
    - (ii) section 69 of the *Banking Act 1959*;
    - (iii) section 106 of the *Life Insurance Act 1945* <sup>2</sup>;
    - (iv) section 254 of the *Bankruptcy Act 1966*;
    - (v) section 12 or 14 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*;
  - or
  - (b) a provision of an Act of the Commonwealth prescribed for the purposes of this subsection applies.
- [(4) *repealed*]
- (5) Part 2 of this Act does not apply to or in relation to —
  - (a) money in respect of which the liability for payment, or the amount that is payable, is disputed or not ascertained;
  - (b) unrepresented traveller's cheques; or



- (c) money which —
  - (i) is an amount of less than \$100, or such other amount as may be prescribed; or
  - (ii) has been obtained or dealt with in such a manner, or is of such a kind, as may be prescribed, for the purposes of this subsection.
- (6) This Act binds the Crown.  
*[Section 4 amended by No. 73 of 1990 s. 45; No. 73 of 1994 s. 4; No. 19 of 2003 s. 26.]*

**5. Questions as to jurisdiction**

Where a liability would arise to pay unclaimed money both —

- (a) to the Treasurer under this Act, but for this section; and
- (b) to a Minister of the Crown under a law of the Commonwealth or of a State or Territory,

any question as to the law applicable to that money shall, for the purposes of this Act, be determined by reference to the law which is applicable in the place where the person to whom the money is owed last had a known address.

## **Part 2 — Unclaimed money**

### **6. Unclaimed money**

- (1) Subject to section 4(3) and (5), any money which is situated in the State and to which this Part applies shall be taken, for the purposes of this Act, to be unclaimed money.
- (2) Any money, other than money to which subsection (3) applies or prescribed retained money, which represents a liquidated sum liable to be paid by a holder for 6 years after the date on which —
  - (a) the money became payable by that holder; or
  - (b) payment might have been demanded or enforced,

without any claim having been made in that time in respect of that money by the owner against the holder, and notwithstanding that the recovery of that money from the holder may have been barred by lapse of time, is money to which this Part applies.

- (3) Any money, other than prescribed retained money, which was deposited with or lent to the holder —
  - (a) so as to bear interest —
    - (i) without time limit; or
    - (ii) for a fixed term or terms, to be re-invested from time to time on expiry of the preceding fixed term,  
where in either case the owner has not operated on the account for 25 years;
  - (b) so as to bear interest for a fixed term but not thereafter to be re-invested, and has remained in the possession of that holder for 6 years after the expiry of that fixed term;  
or

- (c) not so as to bear interest, whether upon current account or otherwise, but where the owner has not dealt with the money deposited for 6 years,

is money to which this Part applies.

*[Section 6 amended by No. 73 of 1994 s. 4.]*

**7. Persons taken, or deemed, to be holders of unclaimed money**

- (1) A person shall for the purposes of this Act be taken to be the holder of unclaimed money if that person —
  - (a) holds that money as a person who or which on behalf of other persons holds money in the normal course of a business, trade or profession;
  - (b) borrowed that money, in the course of a business comprised wholly or in part by the borrowing or lending of money;
  - (c) is a company or other body corporate, or the liquidator or receiver of a company or other body corporate, and that money is in respect of —
    - (i) a deposit with or loan to;
    - (ii) a dividend payable by; or
    - (iii) securities related to,the body corporate;
  - (d) holds or is liable to pay that money by way of salary, wages, pension or superannuation benefit due to any other person;
  - (e) holds the money subject to a trust in respect of that money;
  - (f) acts for or on behalf of another person who is a holder of that money, or is the personal representative of a deceased holder; or
  - (g) is a person prescribed, or a person of a kind prescribed, for the purposes of this section.

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- (2) Where a person ceases to carry on a business, or dies, and for a period of not less than 6 months after that date the person who had carried on the business, or who is the personal representative of the deceased, has held or been liable to pay money of which the owner is not known and which, had the appropriate period by then expired, would have been unclaimed money of which that person was the holder, on an application made by that person the Treasurer may accept a voluntary payment of that money into the Treasury, and on receipt of that money in the Treasury that money may be dealt with by the Treasurer as though it had been unclaimed money of which the applicant shall be deemed to have been the holder but without prejudice to any further liability which the applicant may have had to the owner.
- (3) Where any money is held or is liable to be paid by a person who would not by the operation of subsection (1) be taken to be a holder of that money but the money would have been unclaimed money had it been held by a person who was taken or deemed to be a holder, on an application made by the person who holds or is liable to pay the money the Treasurer may, on such conditions as the Treasurer may impose, agree that that person should be deemed to be a holder for the purposes of this Act in respect of that money and thereupon the Treasurer may issue a certificate that the person shall be so deemed and effect shall be given to that certificate.
- (4) An application made under subsection (2) or (3) shall not be approved unless the Treasurer is —
  - (a) satisfied that particulars of the money to which the application relates, of the person on whose behalf the money was held or to whom it is liable to be paid, and of any trust affecting that money, have been furnished to the Treasury; and
  - (b) provided with —
    - (i) such further information relating to the application as the Treasurer may require; and

- (ii) facilities for the inspection and examination of any books relating to accounting or financial information in respect of, or any other document relating to, that money or matters relating to that money,

for the purposes of this Act.

- (5) For the purposes of subsection (1)(c) the reference to a dividend or to securities shall be construed by reference to the *Corporations Act 2001* of the Commonwealth —
  - (a) if the body corporate is a company; or
  - (b) if the body corporate is not a company, if the money is of a kind that could have been so construed had it been payable by a company.

*[Section 7 amended by No. 20 of 2003 s. 51.]*

**8. Treasurer to be notified of unclaimed money, or its payment**

- (1) A person who, on 31 December in any year, is in possession of or is liable to pay any unclaimed money and is a person who by this Act is taken or deemed to be a holder of that money shall —
    - (a) not later than 31 January in the succeeding year notify the Treasurer in the prescribed manner of —
      - (i) the amount of that money;
      - (ii) the person on whose behalf it is held or to whom it is liable to be paid;
      - (iii) the manner, or the respective manners, in which the holder came into possession of the money and the date of so doing; and
      - (iv) such other matters as may be prescribed in relation to that money;
- and
- (b) provide to the Treasurer —
    - (i) such further information relating to that money as the Treasurer may require; and

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- (ii) facilities for the inspection and examination of any books relating to accounting or financial information in respect of, or any other document relating to, the unclaimed money or matters relating to that money,

for the purposes of this Act.

- (2) Not later than 31 July in any year, a person who pays to the owner or any other person any money of which notification was given under subsection (1) to the Treasurer in that year, shall notify the Treasurer, in writing or in such other manner as may be prescribed, of—
  - (a) the amount and date of the payment, and to whom it was made; and
  - (b) such other matters relating to that payment as may be prescribed,

and provide to the Treasurer in respect of that money the like information and facilities as would have been required had that notification been given under subsection (1).

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### Part 3 — Prescribed retained money

#### 9. Prescribed retained money

- (1) Where money —
- (a) becomes money to which section 37 of the *Aboriginal Affairs Planning Authority Act 1972* applies, and —
    - (i) no claim is made under section 35 or 36 of that Act, or a claim so made is found not to be valid; and
    - (ii) after a period of 3 years that money has not vested in the Authority under that section;
  - (b) being money to which section 28 of the *Disposal of Uncollected Goods Act 1970* applies, is, or is liable to be, deposited with the Treasurer;
  - (c) under section 10(3) of the *Warehousemen's Liens Act 1952* is, or is liable to be, paid to the Treasurer for payment to the Consolidated Account;
  - (d) under section 8 of the *Escheat (Procedure) Act 1940* is, or is liable to be, paid to the Treasurer;
  - (e) under section 45(1) of the *Public Trustee Act 1941* is paid to the Treasury for the public service;
  - (f) having been paid into the Supreme Court by a person under section 99 of the *Trustees Act 1962*, or under an Act repealed by that Act, and not distributed, is vested in the Public Trustee and is for the time being held in the Common Fund established under section 40 of the *Public Trustee Act 1941*;
  - (g) is money, or the proceeds of a sale of property, unclaimed by the person entitled, which under section 27 of the *Trustee Companies Act 1987* is, or is liable to be, paid to the Treasurer;
  - (h) is money that under the *Criminal and Found Property Disposal Act 2006* is to be dealt with under this Act;

- (j) is the proceeds of a sale or disposal, under the *Road Traffic Act 1974* section 80J(2), of an uncollected vehicle or an item, as defined in section 80J(1) of that Act, which under section 80J(7)(k) of that Act is, or is liable to be, paid to the Treasurer;
- (ja) which is not for the time being disburseable prescribed retained money and represents the net proceeds of a sale of goods under regulations under Schedule 7, item 16 of the *Port Authorities Act 1999*, is, or is liable to be paid to the Treasury;
- [(k), (m) deleted]*
- (n) is money, or the proceeds of the sale or disposal of any property, that under section 42(14) of the *Companies (Acquisition of Shares) (Western Australia) Code*<sup>3</sup> is, or is liable to be, paid or transferred to the Treasurer;
- (o) is money, or the proceeds of the sale or disposal of any consideration or other property, that under section 318(11) of the *Companies (Western Australia) Code*<sup>3</sup> is, or is liable to be, paid or transferred to the Treasurer;
- (p) is money that under section 427(6) of the *Companies (Western Australia) Code*<sup>3</sup> is, or is liable to be, credited to the Consolidated Account;
- (q) represents the proceeds of the sale or disposal of any securities or rights transferred, or liable to be transferred, under section 534 of the *Companies (Western Australia) Code*<sup>3</sup> to the Treasurer;
- (r) is money which —
  - (i) is to be held on a trust, or subject to any duty or requirement, imposed by a written law for the use or benefit of persons who may have a claim as owner in respect of that money; or
  - (ii) is held in any department or statutory authority, within the meaning of the *Financial*



*Management Act 2006*, or by a person subject to the provisions of that Act by virtue of the office, service or employment of that person, under any written law for or on account or for the use or benefit of any other person as owner,

and that money is, or by a written law is required to be, paid to the Treasurer or credited to the Consolidated Account or any other account at the Treasury in default of a claim being made by the owner; or

- (s) is money which is by any written law required to be dealt with as though it were money to which the repealed Act applied,

that money shall, after the commencement of this Act, be taken for the purposes of this section to be prescribed retained money.

- (2) Regulations made under this Act may, by reference to the written law under which the money is held or to the circumstances under which the money is held, provide that money of a kind therein specified shall be taken for the purposes of this section to be prescribed retained money.
- (3) Subject to section 4(1)(c), regulations made under this Act may provide that where a person is the holder of prescribed retained money that person shall —
  - (a) on or before a date specified in the regulations —
    - (i) notify the Treasurer in the prescribed manner of the matters referred to in section 8(1)(a); and
    - (ii) provide to the Treasurer the information and facilities referred to in section 8(1)(b);
  - and
  - (b) not later than 6 months after the date so specified, notify the Treasurer in the prescribed manner of the matters referred to in section 8(2),

in relation to that money as though it had been unclaimed money to which Part 2 applies.

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*[Section 9 amended by No. 6 of 1993 s. 11 and 16(1); No. 73 of 1994 s. 4; No. 49 of 1996, s. 64; No. 24 of 1998 s. 68(2); No. 5 of 1999 s. 21 and 26; No. 26 of 1999 s. 109; No. 10 of 2004 s. 15(2); No. 59 of 2006 s. 73; No. 77 of 2006 s. 4 and 17.]*

**10. How prescribed retained money shall be dealt with by the Treasurer**

- (1) Subject to section 4(1)(c), prescribed retained money which was or is required by any written law to be, and which has been or is, paid by the holder to the Treasurer or Treasury shall, after the coming into operation of and for the purposes of this Act, be deemed to be, and may be dealt with by the Treasurer as though it were, unclaimed money.
- (2) Any sum authorised as disburseable, in respect of dues, charges, expenses or other liabilities, under the written law by virtue of which the money is to be taken for the purposes of this Part to be prescribed retained money may be paid out of or deducted from that prescribed retained money, whether before or after it was or is required to be paid to the Treasurer or Treasury.

## Part 4 — Treasury procedures

### Division 1 — Advertisement

#### 11. Treasurer to advertise

- (1) The Treasurer shall, as soon as may be practicable in any year, cause to be advertised the respective amounts and prescribed particulars of —
  - (a) unclaimed money notified to the Treasurer in that year under section 8(1), of which no notification of payment has been given under section 8(2);
  - (b) unclaimed money notified to the Treasurer otherwise than under section 8, or received in the Treasury otherwise than as prescribed retained money, in that year; and
  - (c) prescribed retained money, in so far as the regulations may require.
- (2) Regulations made for the purposes of this section may require persons subject to this Act to furnish to the Treasurer, or to a specified person authorised by the Treasurer, the information required for the purpose of advertisement in a manner and at a time and in a suitable legible form to enable the advertising copy to be collated.
- (3) The advertisement to be published under subsection (1) shall distinguish between —
  - (a) money which a person proposes to pay to the Treasurer voluntarily; and
  - (b) money which the holder is required to pay to the Treasurer under this Act,

and may direct persons having any claim in respect of the money to deal with the holder specified in relation to that money in the advertisement.

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- (4) The Treasurer shall ensure that the information required to be contained in the advertisement to be published under subsection (1) is made available for general public information in Police Stations, and in local government and Government offices and —
- (a) appears in a special edition or editions of the *Gazette*; or
  - (b) is otherwise made known by newspaper advertisement or by a means which is appropriate to the nature of the circumstances under which the liability for payment arose or is likely to be brought to the attention of probable claimants.

*[Section 11 amended by No. 14 of 1996 s. 4.]*

**12. Effect of advertisement of moneys**

Where under this Act any money is advertised, in the *Gazette* or elsewhere, as being unclaimed or as being held or liable to be paid by any person, the advertisement does not prejudice or otherwise affect any rights of an owner of that money and —

- (a) the money is recoverable by the owner from the person holding or liable to pay the money, until the money has been paid to the Treasurer under this Act, but not thereafter; and
- (b) if the money has been so paid to the Treasurer, the owner may apply to the Treasurer for payment to be made under section 15.

**Division 2 — Payments to or from Treasury**

**13. Money not claimed, and voluntarily paid to Treasury otherwise than as unclaimed or prescribed retained money**

- (1) Where for a period of 2 years or more any money has been held by, or liable to be paid by, a person without any claim being made by the owner, on an application made by that person the Treasurer may, subject to the like requirements as are set out in section 7(4) but notwithstanding that that section does not

otherwise apply, accept a voluntary payment of that money into Treasury under the authority conferred by this section.

- (2) On receipt of any money paid into Treasury under subsection (1) —
- (a) that money may be dealt with by the Treasurer as though it had been unclaimed money; and
  - (b) the person making the payment into Treasury shall not thereby be deemed to have been a holder of unclaimed money, but shall be entitled as against the owner to the relief in respect of further liability afforded by section 4(2),

but the money remains subject to any trust or requirement of which the Treasurer was given notice in writing and specifically undertook to give effect to when approving the application made under subsection (1).

- (3) Subsection (1) does not apply to or in relation to money paid —
- (a) into Treasury, on an application approved under section 7(2);
  - (b) in accordance with the approval to an application under section 7(3); or
  - (c) under section 10(1), as being prescribed retained money.

**14. Advertised money unpaid payable to the Treasurer**

- (1) Where any unclaimed money is advertised under section 11 and on the expiration of the period ending on 31 July next following the date on which it was advertised remains unpaid to the owner, that money —
- (a) if it is money which was advertised as proposed to be paid voluntarily under section 11(3)(a) may; and
  - (b) in any other case, within 14 days thereafter, shall,

be paid by the holder to the Treasurer, unless the holder notifies the Treasurer of its payment in accordance with section 8(2) or

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satisfies the Treasurer that a person has established a valid claim to the money and that the claim will be met.

- (2) Where any prescribed retained money is advertised under section 11 that money shall, in the prescribed manner, be paid by the holder to the Treasurer.

**15. Treasurer may make payment to claimant**

- (1) If a person applies to the Treasurer for payment —
- (a) of any money required to be paid to the Treasurer under this Act or the repealed Act and so paid;
  - (b) of any money paid to the Treasurer voluntarily under this Act; or
  - (c) of any money received by the Treasurer to be dealt with as though it were money to which this Act or the repealed Act applied,

the Treasurer, on being satisfied that the claimant on behalf of whom or which the application is made is the owner of the money, shall cause payment of that money to be made to the claimant.

- (2) Money payable by the Treasurer under subsection (1) shall be charged to the Consolidated Account which is hereby appropriated to the extent necessary.
- (3) Any question as to whether any payment is to be made by the Treasurer under this section shall be a matter for the Treasurer to determine, but —
- (a) if the Treasurer so requires, where there are competing claims or otherwise, the Treasurer may; and
  - (b) if a person aggrieved by a determination made by the Treasurer so requires, the Treasurer shall,

seek directions from a court having competent jurisdiction with respect to the amount of money in question.

*[Section 15 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*

**16. Interest on payments made**

- (1) Except in so far as subsection (2) provides, interest shall be taken not to accrue in relation to any money paid to the Treasurer or into the Treasury under this Act.
- (2) Where the Treasurer is satisfied that any money which it is agreed shall be payable into Treasury under section 13(2) was, immediately prior to the time at which it was paid into the Treasury, money that was held or owed in circumstances giving rise to a duty, at law or in equity, on the part of a person by whom that money was then held or owed to pay interest to, or to ensure that interest was earned on the money for, the person for whom it was held or to whom it was owed, and that the amount of that money at that time exceeded the prescribed amount, the Treasurer may pay to a claimant interest in respect of the money.
- (3) The interest payable under subsection (2) shall be calculated at a rate to be determined by the Treasurer, being a rate not less than that payable from time to time on ordinary savings accounts with the Commonwealth Bank of Australia.

*[Section 16 amended by No. 6 of 1994 s. 13; No. 14 of 1995 s. 44.]*

**17. Money recoverable by Treasurer**

All money required to be paid to the Treasurer or Treasury under this Act, or as money which is unclaimed under any other prescribed written law including under a repealed Act, shall be recoverable by the Treasurer on behalf of the Crown by action in any court of competent jurisdiction in the name of the Treasurer against the holder as a debt due to the Crown.

**18. Payment into Consolidated Account**

All money received by the Treasurer or in the Treasury —  
(a) under this Act; or

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- (b) under any other written law, by way of, or to be dealt with as, money which is unclaimed,

shall be credited to the Consolidated Account and may thereafter be dealt with by the Treasurer in accordance with this Act.

*[Section 18 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*



## **Part 5 — Administration**

### **19. Exemption**

- (1) The Treasurer may, pursuant to an arrangement in writing, by notice in the *Gazette* exempt any holder or class of holder from compliance with, or with any provision of, this Act, either absolutely or conditionally, in respect of specified kinds of unclaimed money.
- (2) Regulations may make provision for the exemption of any person from any requirement of this Act in respect of unclaimed money or prescribed retained money.

### **20. Exemptions in respect of money subject to a trust**

- (1) A person who holds money subject to a trust may —
  - (a) apply to the Treasurer for a certificate; or
  - (b) if the application to the Treasurer is refused, apply to a Master of the Supreme Court for an Order,

exempting that person from the requirements of this Act in respect of that money.

- (2) A certificate or Order under subsection (1) —
  - (a) may be granted —
    - (i) conditionally; or
    - (ii) unconditionally;
  - and
  - (b) shall be given effect.

### **21. Delegations and authorisations**

- (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him delegate to any Minister any functions that are conferred on the Treasurer by this Act other than this power of delegation.

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- (2) A person holding or acting in the office of Treasurer or a Minister to whom any function has been delegated under subsection (1) may, either generally or as otherwise provided by the instrument of delegation, by writing signed by that person delegate to any officer of the Treasury any functions that are conferred on the Treasurer by this Act other than this power of delegation.
- (3) Where a function has been delegated under subsection (2) to the Under Treasurer, the Under Treasurer may authorise another officer of the Treasury to perform the function so delegated.
- (4) A delegation under subsection (2) or an authorisation under subsection (3) may be to —
  - (a) a specified person; or
  - (b) the person for the time being holding a specified office.
- (5) Any act or thing done in the performance of a function by a Minister or by a person to whom that function has been delegated by the Treasurer under subsection (1) or (2), or by a person authorised by the Under Treasurer under subsection (3) to perform that function, has the same force and effect as if it had been done by the Treasurer.
- (6) Where the performance of a function by the Treasurer is dependent upon the opinion, belief or state of mind of the Treasurer in relation to a matter and that function has been delegated under subsection (1) or (2), that function may be performed by the delegate, or by a person authorised by the Under Treasurer under subsection (3), upon the opinion, belief or state of mind of the delegate or of the authorised person, as the case may be, in relation to that matter.
- (7) The giving of an authorisation under subsection (3) does not prevent the performance of a function by the Under Treasurer.
- (8) Where a person purports to perform a function conferred or expressed to be conferred on the Treasurer under this Act, it shall be presumed, unless the contrary is established, that the

person is duly authorised by a delegation under subsection (1) or (2), or by an authorisation under subsection (3) given pursuant to such a delegation, to perform the function.

- (9) A document purporting to be signed for the purposes of this Act by a Minister, or an officer of the Treasury as a delegate of the Treasurer or the Minister shall be deemed, unless the contrary is established, to have been signed by that person as such a delegate and to have been so signed pursuant to the performance of a function duly delegated by the Treasurer.
- (10) A document purporting to be signed for the purposes of this Act by an officer of the Treasury authorised by the Under Treasurer to sign the document shall be deemed, unless the contrary is established, to have been signed by such an officer so authorised and to have been so signed pursuant to the performance of a function that the officer is duly authorised by the Under Treasurer to perform.
- (11) Where the Treasurer has delegated a function to a person under this section —
- (a) the Treasurer may give directions to the delegate with respect to the performance of that function;
  - (b) if a Minister has under subsection (2) delegated the performance of that function to an officer of the Treasury, that Minister —
    - (i) shall if the Treasurer has given a direction to that officer under paragraph (a) with respect to the performance of that function, give a corresponding direction to the officer; and
    - (ii) may, subject to any direction given to the Minister by the Treasurer under paragraph (a), give directions to an officer with respect to the performance of that function;
- and

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- (c) if the Under Treasurer has under subsection (3) authorised another officer of the Treasury to perform that function, the Under Treasurer —
  - (i) shall, if the Treasurer has given a direction to that officer under paragraph (a) with respect to the performance of that function, give a corresponding direction to the officer; and
  - (ii) may, subject to any direction given to the Under Treasurer by the Treasurer under paragraph (a), give directions to the officer with respect to the performance of that function.

**22. Offences**

- (1) A person who, wilfully or negligently —
  - (a) being a holder, fails to comply with any requirement of this Act or with any condition imposed in relation to an application, arrangement or exemption under this Act; or
  - (b) being a director, manager, secretary or other officer of a holder, authorises or permits such failure in compliance,commits an offence.  
Penalty: \$2 000.
- (2) A person who, otherwise than in the performance of a function under or in connection with this Act, either directly or indirectly —
  - (a) makes a record of, or divulges or communicates to any other person, any information concerning the affairs of another acquired by reason of, or in the course of the administration of, this Act; or
  - (b) produces to any person any books or other thing relating to the affairs of another furnished for the purposes of this Act,commits an offence.  
Penalty: \$2 500.

- (3) Where the affairs of a body of persons are managed by its members, subsections (1) and (2) apply in relation to the acts and defaults of a member in connection with a function of the management of that body as if that person were the manager of that body.

*[Section 22 amended by No. 50 of 2003 s. 101(2).]*

**23. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

**24. Repeal**

The *Unclaimed Moneys Act 1912* is repealed.

**25. Transitional provision**

All money standing to the credit of the fund called the “Unclaimed Moneys Fund” pursuant to section 6 of the repealed Act is, without further authorisation or appropriation than this Act, transferred to the credit of the Consolidated Fund<sup>5</sup>.

*[Section 25 amended by No. 6 of 1993 s. 11.]*

**Notes**

- <sup>1</sup> This is a compilation of the *Unclaimed Money Act 1990* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Unclaimed Money Act 1990</i>	31 of 1990	9 Oct 1990	12 Apr 1991 (see s. 2 and <i>Gazette</i> 12 Apr 1991 p. 1597)
<i>R &amp; I Bank Act 1990</i> s. 45(1)	73 of 1990	20 Dec 1990	1 Jan 1991 (see s. 2(2) and <i>Gazette</i> 28 Dec 1990 p. 6369)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11 and 16(1)	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>R &amp; I Bank Amendment Act 1994</i> s. 13	6 of 1994	11 Apr 1994	26 Apr 1994 (see s. 2(2) and <i>Gazette</i> 26 Apr 1994 p. 1743)
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Bank of Western Australia Act 1995</i> s. 44	14 of 1995	4 Jul 1995	1 Dec 1995 (see s. 2(3) and <i>Gazette</i> 29 Nov 1995 p. 5529)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Gaming) Act 1998</i> s. 68(2)	24 of 1998	30 Jun 1998	5 Aug 1998 (see s. 2 and <i>Gazette</i> 4 Aug 1998 p. 3981)
<i>Port Authorities (Consequential Provisions) Act 1999</i> s. 21 and 26	5 of 1999	13 Apr 1999	14 Aug 1999 (see s. 2 and <i>Gazette</i> 13 Aug 1999 p. 3823)
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 109	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)

Short title	Number and year	Assent	Commencement
<b>Reprint of the Unclaimed Money Act 1990 as at 5 Nov 1999</b> (includes amendments listed above)			
<i>Unclaimed Money (Superannuation and RSA Providers) Act 2003</i> s. 26	19 of 2003	17 Apr 2003	1 Jul 2003 (see s. 2)
<i>Corporations (Consequential Amendments) Act (No. 2) 2003</i> Pt. 25	20 of 2003	23 Apr 2003	15 Jul 2001 (see s. 2(1) and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 101	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004</i> s. 15	10 of 2004	23 Jun 2004	4 Sep 2004 (see s. 2 and <i>Gazette</i> 3 Sep 2004 p. 3849)
<i>Criminal Investigation (Consequential Provisions) Act 2006</i> s. 73	59 of 2006	16 Nov 2006	1 Jul 2007 (see s. 2 and <i>Gazette</i> 22 Jun 2007 p. 2838)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4 and 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

**Reprint 2: The Unclaimed Money Act 1990 as at 9 Mar 2007** (includes amendments listed above except the amendments in the *Criminal Investigation (Consequential Provisions) Act 2006* s. 73)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Public Trustee and Trustee Companies Legislation Amendment Act 2008</i> Pt. 4 <sup>4</sup>	9 of 2008	31 Mar 2008	To be proclaimed (see s. 2(2))

<sup>2</sup> Repealed by the Life Insurance (Consequential Amendments and Repeals) Act 1995 of the Commonwealth.

<sup>3</sup> The *Companies (Western Australia) Code* and the *Companies (Acquisition of Shares) (Western Australia) Code* were superseded by the Corporations Law which, on 15 July 2001, was superseded by the *Corporations Act 2001* of the Commonwealth. See Part 13 Division 2 of the *Corporations (Western Australia) Act 1990* and Part 2 of the *Corporations (Ancillary Provisions) Act 2001* respectively.

<sup>4</sup> On the date as at which this compilation was prepared, the *Public Trustee and Trustee Companies Legislation Amendment Act 2008* Pt. 4 had not come into operation. It reads as follows:

“

**Part 4 — Unclaimed Money Act 1990 amended**

**35. The Act amended**

The amendments in this Part are to the *Unclaimed Money Act 1990*.

**36. Section 9 amended**

Section 9(1)(f) is amended by deleting “the Common Fund established under section 40 of the *Public Trustee Act 1941*” and inserting instead —

“

the Common Account as defined in section 2 of the *Public Trustee Act 1941*

”  
.”

<sup>5</sup> The former Consolidated Fund became the Consolidated Account.