



INFORMATION FOR COMPANIES/LEGAL PRACTICES LODGING UNCLAIMED MONEY

GENERAL INFORMATION

A number of Australian (Commonwealth/State/Territory) laws deal with unclaimed money. This information guide deals only with -

- *Unclaimed Money Act 1950*; money held by companies (other than superannuation);
- *Legal Profession Act 2006*;
- *Agents Act 2003*.

UNCLAIMED MONEY ACT 1950

While not a legislative requirement, unclaimed money are generally held by the State or Territory in which the organisation is incorporated. Most unclaimed money lodged with the Public Trustee is lodged under the *Unclaimed Money Act 1950*.

The Act covers unclaimed assets in the hands of liquidators but only where the liquidation took place prior to 1 January 1991. **However it does not cover -**

- money held by banks;
- personal money;
- money owing by a business within the terms of the *Business Names Act*;
- salaries and wages (determined under arbitration legislation);
- unclaimed money under the jurisdiction of the Australian Securities and Investments Commission (refer *Corporations Act*).

1. Money held by Companies (other than superannuation)

This category covers money held by a company and payable to a member of that company, or in respect to deposits or securities with the company, and where -

- six years or more have elapsed since the date payable; and
- no contact has been made with the company by the person entitled, within that time.

"Company" includes -

- a body corporate being a company (including a foreign company) for the purposes of the *Corporations Act*;
- a cooperative society registered under the *Cooperatives Act 2002*; and
- an association incorporated under the *Associations Incorporation Act 1991*.

Obligations of companies

Section 7 of the *Unclaimed Money Act 1950* states that by the 31 January each year, particulars of money which have become unclaimed money during the preceding year are to be entered into an alphabetical register. This register should be maintained for public inspection for 12 months at the company's principal office during office hours;

Section 8 states that by 31 March of the following year, companies should lodge with the Public Trustee and Guardian, a copy of the register and a signed lodgment form and publish in a daily newspaper circulating in the ACT, a notice stating the company has unclaimed amounts owing from the previous year and with contact details for enquiries;

Under Section 10, companies are to lodge the money with the Public Trustee and Guardian, on behalf of the Territory, not later than month after the end of the 12 month period.

Following this, the company is relieved of all further liability in respect to the money.

Receipt of Money

Money should be paid to the Public Trustee and Guardian on behalf of the Territory in the form of a cheque made payable to "Public Trustee and Guardian", or to pay by EFT, please contact our office on (02) 6207 9800.

Obligations of Public Trustee and Guardian

The Public Trustee and Guardian is responsible for -

- receiving unclaimed money paid by companies or other agencies under the Act or other legislation;
- paying the money into a trust account;
- maintaining a register containing particulars of the money;
- receiving claims and authorising payments for the money as authorised;
- receiving and filing returns lodged by companies holding the money on behalf of persons entitled to claim.

Following this, the company is relieved of all further liability in respect to the money.

2. Unclaimed money held under other legislation

Agents Act 2003

Under S.119 & 122 of the Agents Act, licensed agents must give the Office of Regulatory Services by 31 July each year, a statement of unclaimed trust money of more than three years held as at 1 July. The statement should include name, address, amount and purpose held.

Within six months of receipt, under S. 123 the Office of Regulatory Services will cause a notice under the *Legislation Act* and a publication in an ACT newspaper. After expiry of a further three months, a written notice will be issued to the licensed agent to pay unclaimed money to the Public Trustee and Guardian.

The Office of Regulatory Services may be contacted on 6207 3000.

Legal Profession Act 2006

Under existing administrative arrangements, unclaimed money held in trust accounts controlled and administered by legal practitioners must be paid to the Public Trustee and Guardian within one month of becoming unclaimed. S.259 of the Act sets out the requirements for payments.

An amount of trust money held by a law practice becomes an **unclaimed amount** if -

- (a) the amount has been held by the practice for a period of 6 years during which the practice has had no knowledge of the existence or address of the person on whose behalf the amount is held; or
- (b) the person on whose behalf the amount is held failed to accept payment of the amount when tendered.

Claims for payment must be made by application to the Public Trustee.

FURTHER INFORMATION

For further information please contact –

In person:

Public Trustee and Guardian
Ground Floor
221 London Circuit Canberra City ACT

By Mail:

Public Trustee and Guardian
PO Box 221
CIVIC SQUARE ACT 2608

Telephone (02) 6207 9800

Facsimile (02) 6207 9811

Website www.ptg.act.gov.au

Hours of business 9:00 am-4.30 pm Monday to Friday

ACT Legislation www.legislation.act.gov.au