

APPENDIX 19

INSTRUMENT OF DELEGATION UNDER THE UNCLAIMED GOODS ACT 1987

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

Sub-delegation

In exercise of the power provided to me by the Council on the 21 February 2017 as above, I, Colin John Davies, Chief Executive Officer on this Twenty-First day of February 2017 hereby sub-delegate the following powers to the officer or officers of the Council as indicated in the column marked "Subdelegate" (including any person appointed to act in any such position).

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

	SUB-DELEGATE
1. Unclaimed Goods	
1.1 The power pursuant to Section 5(1)(b) of the Unclaimed Goods Act 1987 (the Act) where the Council is in possession of goods belonging to another (the bailor) in pursuance of an agreement or understanding under which the Council was to deliver the goods to the bailor, to make reasonable attempts to deliver the goods in accordance with the agreement or understanding.	
1.2 The power pursuant to Section 5(1)(c) of the Act where the Council is in possession of goods belonging to the bailor and there is no agreement or understanding governing the collection or delivery of the goods, to request the bailor in accordance with Section 5(2) of the Act, to collect the goods.	
1.3 The duty pursuant to Section 5(2) of the Act in making a request for the purposes of Section 5(1)(c) of the Act, to ensure the request -	

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1.1.1	states the address at which the goods are available for collection; and	
1.1.2	contains a brief description of the goods; and	
1.1.3	states the times at which, or the hours between which, the goods will be available for collection at that address; and	
1.1.4	is made -	
1.1.4.1	by post addressed to the last known address of the bailor; or	
1.1.4.2	if the identity or whereabouts of the bailor is unknown - by notice in the prescribed form published in a newspaper circulating generally throughout the State.	
1.2	The duty pursuant to Section 5(3) of the Act to ensure a request made for the purposes of Section 5(1)(c) of the Act allows the bailor a reasonable opportunity to collect the goods to which it relates.	
2.	Sale or Disposal of Unclaimed Goods	
2.1	The power pursuant to Section 6(1) of the Act and the power subject to Section 6 of the Act, where the Council is a bailee of unclaimed goods, to, after the expiration of three months from the relevant date -	
2.1.1	sell the goods; or	
2.1.2	if the value of the goods would be insufficient to defray the costs of sale - otherwise dispose of the goods.	
2.2	The power pursuant to Section 6(2) of the Act to apply to the Court for an authorisation to sell or dispose of goods under Section 6(1) of the Act and the duty pursuant to Section 6(2) of the Act, if the value of the goods lies within scale 3, to not sell or dispose of the goods without such an authorisation.	
2.3	The duty pursuant to Section 6(3) of the Act where an application for an authorisation under Section	

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6(2) of the Act is made, to -	
2.3.1 give notice of the application to the Commissioner of Police; and	
2.3.2 give such notice (if any) as the Court thinks appropriate to the bailor and any other person who, in the opinion of the Court, may have an interest in the goods.	
2.4 The power pursuant to Section 6(5) of the Act, if the value of unclaimed goods lies within scale 1 or 2, to sell or dispose of the goods under Section 6(1) of the Act without any authorisation by the Court and the duty pursuant to Section 6(5)(b) of the Act, if goods whose value lies within scale 2 are to be sold without such an authorisation, to	
2.4.1 sell the goods by public auction; and	

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<p>2.4.2 give notice in the prescribed form of the time and place of the proposed sale at least one month before the date of the proposed sale -</p>	
<p>2.4.2.1 to the Commissioner of Police; and</p>	
<p>2.4.2.2 to the bailor.</p>	
<p>2.5 The power pursuant to Section 6(6) of the Act to give a notice under Section 6(5)(b) of the Act by post and, if the identity or whereabouts of the bailor is unknown, to give the notice to the bailor by advertisement in a newspaper circulating generally throughout the State.</p>	
<p>3. Claim Made by Bailor After Commencement of Proceedings Under this Act</p>	
<p>3.1 The duty pursuant to Section 7(1) of the Act and subject to Section 7(2) of the Act, where the Council has commenced proceedings for the sale or disposal of goods under the Act but before the goods are sold or disposed of the bailor claims the goods, to not proceed with the sale or disposal of the goods, and to hand them over to the bailor.</p>	
<p>3.2 The power pursuant to Section 7(2) of the Act to, before handing over goods under Section 7(1) of the Act, require the bailor to pay -</p>	
<p>3.2.1 the reasonable costs incurred by the Council in proceeding under the Act;</p>	
<p>3.2.2 the reasonable costs incurred by the Council in storing and maintaining the goods after the date on which the bailor should have collected or taken delivery of them;</p>	
<p>3.2.3 the amount of any lien that the Council has over the goods.</p>	
<p>3.3 The power pursuant to Section 7(3) of the Act, if at the expiration of 42 days after the Council has rendered a written account of the amounts claimed</p>	

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under Section 7(2) of the Act the bailor has not paid those amounts, to, subject to Section 7(4) of the Act, proceed to sell or dispose of the goods.	
4. Proceeds of Sale	
4.1 The power pursuant to Section 8(1) of the Act in relation to the proceeds of the sale of goods under the Act to -	
4.1.1 retain from those proceeds -	
4.1.1.1 the reasonable costs of the sale and of proceeding under the Act;	
4.1.1.2 the reasonable costs of storing and maintaining the goods prior to sale;	
4.1.1.3 the amount of any lien that the Council had over the goods; and	
4.1.2 pay the balance to the Treasurer.	

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SCHEDULE OF CONDITIONS

**CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT**

[Instructions for use: any conditions or limitations which apply to delegations under this Act should be inserted here – DELETE this note once conditions/limitations are entered. If no conditions apply insert “NIL”]

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations