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IAME Submission-Better Business Reforms-Options Paper-November 2018

Introduction

The Institute of Automotive Mechanical Engineers (**The IAME**) is a membership organisation that was first formed in 1932 and incorporated in 1936 for individuals involved in all aspects of the Automotive Industry. We remain relevant, dedicated and passionate about our members and the Automotive Industry. Our members are drawn from all avenues of the Automotive Industry and consist of tradespeople, personal and corporate affiliates as well as students.

The IAME appreciates the opportunity to provide further submissions on the Better Business Reforms. We feel that the reforms will provide great benefit to our members. In particular, amendments to the *Uncollected Goods Act 1995 (The Act)* will provide our motor vehicle repairer members with much needed flexibility to deal with abandoned or uncollected motor vehicles that are often left with them by their customers.

The IAME provides further feedback on these amendments below:

IAME Submission

Streamlining the uncollected goods regime

1. Do you think that any regulations need to be made under the new uncollected goods requirements?

The IAME is of the belief that the reform could commence without adding new regulations to the Act.

The IAME understands that future regulations may prescribe time periods under which a customer (or Depositor as under the Act) may make an application for compensation (or any other appropriate order) to the NSW Civil and Administrative Tribunal (**NCAT**).

The IAME supports the inclusion of a time period that is in line with the record keeping requirements under the Act (6 months for low value goods, 6 years for all other goods). The inclusion of these time periods will provide repairers with much needed certainty that these disputes can be regarded as settled upon the passing of these time frames.

2. Do you think that the start date provides sufficient time to ensure affected groups have time to prepare for the change in requirements for the disposal of uncollected goods?

The proposed start date of October 1, 2019 provides plenty of time for affected groups to have time to prepare for the change in requirements.

The IAME feels that an earlier timeframe, such as April 2019, would be preferable so as to provide the benefits of this reform to stakeholders as soon as possible.

3. Do you think that the Government needs to take any other action about changes to the Uncollected Goods Act? If so, what should that action be?

It is important that motor vehicle repairers be provided with sufficient information about the reforms prior to the commencement date. Further information, in the form of a brochure or a web page on the Fair-Trading website, could provide repairers with information as to the correct procedures for disposing of uncollected goods under the Act.

In particular, motor vehicle repairers could be provided with further information about how the Act works in practice. Important topics for repairers are how much they are allowed to charge as part of an uncollected goods dispute and what they need to do with the proceeds of sale.

How much money are traders are allowed to charge customers on disposal of the goods?

Section 10 of the *Uncollected Goods Act 1995* outlines the relevant charges that repairers are entitled to charge when uncollected goods are disposed of as provided under the Act.

To summarise, traders are allowed to charge for amounts incurred for for any carriage, storage, maintenance and insurance of the goods or for any repairs or for any work done in connection with the goods. They are also allowed to charge for any of the costs incurred for disposing of the goods. Section 10 outlines how repairers should charge the amounts agreed between them and the customer for the goods, or, in the absence of any agreement, such amount as is considered reasonable.

For many repairers, many of these costs are never agreed (either verbally or in a contract) between themselves and the customers and so an example of reasonable amounts for these costs provided by NSW Fair Trading may be very helpful.

For instance, repairers may want to charge customers for the economic loss associated with the loss of their workshop space or for productivity losses associated with storing the vehicle. It will not be clear to repairers if they are allowed to charge these costs if they read the Act. It is suggested that a 'case study' or a 'further information' page be included on the NSW Fair Trading website that breaks down these costs. Costs associated with vehicle storage are prescribed by NSW Fair Trading in the case of Tow Truck Charges and rates of \$23 (Sydney Metropolitan Area) or \$14 a day (Outside Sydney Metropolitan Area) could be suggested as an example that is considered reasonable¹.

Suggested information to be provided

Example of costs that can be charged or retained on disposal of the goods

- Costs agreed with customer for work done on the goods;
- Actual costs incurred by selling or disposing of the goods;
- Actual costs incurred by of storing the goods (if paid to third party);
- Reasonable costs associated with storing goods on the premises (if stored by repairer themselves). A daily rate of \$23 day (Sydney Metropolitan Area) or \$14 a day (outside Sydney Metropolitan Area) are considered reasonable.

¹ <https://www.fairtrading.nsw.gov.au/buying-products-and-services/buying-services/vehicle-towing>

What to do with proceeds of sale

Section 29 of the *Uncollected Goods Act 1995* outlines what to do with the proceeds of sale. The section makes clear that after relevant charges are deducted, the balance of the proceeds of sale are to be dealt with as if it were unclaimed money for the purposes of the *Unclaimed Money Act 1995*.

In practice, this means that if a repairer sells an uncollected motor vehicle as part of an uncollected motor vehicle dispute under the Act, they must provide the proceeds to Revenue NSW after the deduction of their costs.

The procedure for sending unclaimed money to Revenue NSW can be found online² but this is likely to be very difficult to understand for most motor vehicle repair stakeholders.

It is suggested that further information be provided online by Fair Trading NSW to inform repairers of their obligations regarding the proceeds of sale for uncollected goods disputes.

Suggested information to be provided

Revenue NSW can be contacted on (02) 9689 6200 or 1300 366 016 (outside Sydney metropolitan area) for more information. Payment options (such as bank transfer, cheque etc) can be found by clicking this [link](#)

Suggested case study to be used to provide further information

Case Study-Uncollected Goods-Motor Vehicle Repair

Greg is a motor vehicle repairer. He receives a job from a customer named Kurt to fix a 1998 Holden Commodore. The car is worth roughly \$2,000. Kurt agrees to pay Greg \$500 for the work. After performing the repairs and examining the car further, Greg informs Kurt that further repairs in the amount of \$1,000 are needed to ensure the car is roadworthy. Kurt does not agree to pay. Kurt ceases contact with Greg and the Holden Commodore is left with Greg in his workshop.

Greg wishes to dispose of the vehicle as it is taking up valuable garage space. As the car is a medium value good (\$1,000-\$10,000), he writes a letter to Kurt informing him he has 28 days to collect the car otherwise he will sell the car for fair value online. Kurt does not reply to the letters. After 28 days Greg sells the car for \$2,000 dollars. Greg retains \$500 for the work he has done on the car, \$25 for the hour of employee time required to write a letter contacting Kurt, \$690 for the reasonable costs of storing the vehicle for 30 days (\$23x30) and \$35 for the costs paid to advertise and sell the car online. The remaining \$750 is provided to Revenue NSW.

The case study above is provided as an example of the kind of information that would be extremely helpful for motor vehicle repairers to understand their obligations under the uncollected goods regime. The IAME suggests that this example, or one like it, be included on the NSW Fair Trading website on the uncollected goods page to provide further information to repairers of the Act.

² <https://www.revenue.nsw.gov.au/ucm/send>

4. Are there any other issues with starting the uncollected goods reforms on 1 October 2019? Are there reasons the changes should start sooner or later?

The IAME does not anticipate there is any issues in the reforms starting on 1 October 2019.

Conclusion

Thank you for taking the time to seek further submissions on the Better Business reforms.

Please do not hesitate to get in touch should you have any questions or require further follow up.

Regards,

Peter Blanshard MIAME JP AIAA
Chief Executive Officer
Dip. Auto. Tech | Dip. Auto. Mgmt