

Yoorrook Truth Commission Submission

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Subject: Unclaimed Money - State & Federal

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Recommendation:

For Yoorrook Justice Commission to consider this paper and if seen fit, make recommendations for the Government to reform distribution of unclaimed monies in accordance with this paper.

Victoria

As a first step: To negotiate in an amendment to the Unclaimed Monies Act 2008 to distribute monies otherwise flowing to the Victorian State Governments 'Consolidated Fund' through to the relevant Traditional Owner Nation, after monies remain unclaimed following, the 15-year period of inactivity on the Victorian Unclaimed Monies Register.

Where unclaimed monies do not have a known address attached, or monies are not directly derived by Country, the monies are to flow through to Self-Determination Fund, following the 15-year period of inactivity on the Victorian Unclaimed Monies Register.

The Self-Determination Fund will distribute unclaimed monies equally as a revenue stream to all Traditional Owners Nations within the State of Victoria.

Federal

After successful changes to the Victorian Unclaimed Monies Act 2008, a second step:

To advocate for amendments to the unclaimed monies legislation under:

- s69 of the Banking Act 1959 (Banking Act)
- s216 of the Life Insurance Act 1995 (Life Insurance Act)
- sections 668A, 668B, 1343, 1343A 1017E, 601AD(2), 601AD(1A), 601NG, 544 and 414 of the Corporations Act 2001(Corporations Act)

To establish a time limit of 15-years for money to be claimed by the rightful owner. After 15-years any unclaimed monies become surrendered to the Commonwealth and distribution of monies flow through to the relevant Traditional Owner Nation.

Where unclaimed monies do not have a known address attached, or monies are not directly derived by Country, the monies are to flow through to Self-Determination Fund in Victoria, (and a relevant Traditional Owner Trust in other States & Territories as determined through Community led consultation) after monies remain unclaimed, following the 15-year period of inactivity of money being held with ASIC.

Executive Summary

The proposed recommendations above enable pathways for Traditional Owner reparation payments that do not immediately impact the lives of everyday Victorians/Australians, and removes an ever-increasing liability at a federal level due to unclaimed monies having no current statute of limitation.

Moreover, this is an avenue that Traditional Owners can activate as a revenue stream that would not directly impact/come from ratepayer taxes, levies or duties. Some of the ratepayer taxes, levies or duties which could flow to Traditional Owners could potentially be seen as politically contentious and could result in negative media and disparaging narratives about Traditional Owners and Aboriginal Communities.

Thinking creatively about more obscure revenue sources could enable lesser known or thought about State revenue streams to be reallocated to Traditional Owners with a lessor impact on the 'ordinary Australian.'

Background

Below are the State & Federal schemes for the management of unclaimed monies.

Victoria

In Victoria unclaimed money is money that cannot be reunited with its rightful owner because, for example, the person has moved address, changed their name, or forgotten about it.

Unclaimed money can be any amount \$20 and over, including:

- share dividends,
- salaries and wages,
- rent and bonds,
- debentures and interest,
- proceeds from a sale, and
- Tatts, Intralot and TAB winnings and prizes.

Every year, millions of dollars end up in the Victorian Unclaimed Money Register through the State Revenue Office (SRO)/the Court Registrar waiting to be collected by its rightful owners.

Businesses, gaming venues and betting agencies lodge these unclaimed amounts with the Victorian Unclaimed Money Register.

The SRO do not hold all types of lost money, for example, superannuation and funds from bank accounts are dealt with by other agencies like ASIC.

Where does the money go?

After 15 years of being held on the Victorian Unclaimed Money Register, and the money remains unclaimed the money must be paid to the 'Consolidated Fund'. The Consolidated Fund is the Government's primary financial account, established by the Financial Management Act 1994 (FMA), that receives all Consolidated Revenue under the Constitution Act 1975 and other monies as defined in section 9 of the FMA.

Federal

At a Federal level the Commonwealth handle unclaimed money through the Australian Securities and Investment Commission (ASIC).

ASIC is responsible for handling all unclaimed moneys from:

- authorised deposit taking institutions, under s69 of the Banking Act 1959 (Banking Act)
- life insurance companies & benefit fund friendly societies, only for annual returns made under s216 of the Life Insurance Act 1995 (Life Insurance Act)
- companies with unclaimed money/property, under sections 668A, 668B, 1343, 1343A 1017E, 601AD(2), 601AD(1A), 601NG, 544 and 414 of the Corporations Act 2001(Corporations Act).

Where does the ASIC money go?

Unclaimed money for which ASIC is responsible, is paid by institutions to ASIC. ASIC does not retain the funds, which are eventually transferred to the Commonwealth of Australia Consolidated Revenue Fund.

ASIC maintains the unclaimed money records (details provided by institutions about the owners of the money), assisting in the identification and reuniting of unclaimed money to the rightful owners.

At a Federal level however, unclaimed money allocated to the Consolidated Revenue Fund has no time limit to which an individual can make a claim to the unclaimed money. This is different to the Victorian legislation for unclaimed money, which sets a time limit of 15-years.

The money remains available to claim, even though it has been transferred to the Consolidated Revenue Fund.

Currently there is \$1.5 Billion in lost money in Australia.

Risks & Mitigations

Risk: Most unclaimed money may be located within a couple of Traditional Owners Country based on last known address. This potential Treaty outcome could disproportionately benefit certain Traditional Owners more than others. However, Traditional Owners with cities and large suburban areas on their lands have had varying impacts of colonisation in relation to the activation of rights compared lessor urbanized Traditional Owner lands.

Mitigation: Separating the unclaimed monies into two general categories:

- 1) Those monies which are directly derived from Country
 - Rent & Bonds
 - Proceeds from a sale of land

The monies directly derived from Country are to be allocated to the relevant Traditional Owner Nation where the land transaction occurred (rent, bond, sale in relation to land)

- 2) Those monies which are not directly derived from Country
 - Share dividends
 - Salaries & Wages

- Debentures and interest
- Tatts, Intralot and TAB winnings and prizes

These monies along with the Federal unclaimed monies (below) be allocated to the Self-Determination Fund (in Victoria) and distributed equally between the Traditional Owner Nations within the State of Victoria.

Unclaimed Federal Monies held by ASIC through:

- Banking Institutions
- Life Insurance &;
- Companies

References

[Unclaimed Money Act 2008](#)

[Financial Management Act 1994](#)

[Banking Act 1959](#)

[Life Insurance Act 1995](#)

[Corporations Act 2001](#)

[State Revenue Office - Unclaimed Money](#)

[ASIC - Unclaimed Money](#)

[Self-Determination Fund](#)