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A COMPARATIVE ANALYSIS OF THE DISPOSAL OF UNCOLLECTED GOODS ACT OF ZAMBIA WITH KENYA VIS-A VIS MODERNISING THE LAW.

By:

PATRICIA CHANDA CHISHIMBA

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2025

DECLARATION

I declare that this dissertation entitled A COMPARATIVE ANALYSIS OF THE DISPOSAL OF UNCOLLECTED GOODS ACT OF ZAMBIA WITH KENYA VIS-A VIS MODERNISING THE LAW. which is hereby submitted in partial fulfilment of the requirement for the award of a Bachelor's degree at the University of Lusaka is my own original work and it has not been previously submitted for the award for a degree at this university or any other tertiary institution. I understand what plagiarism entails and I'm aware of the University's policy in this regard. Thus, where other people's work is cited, I have duly acknowledged. The errors or omissions in this work are solely mine.

PATRICIA CHANDA CHISHIMBA

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RECOMMENDATION

I Mrs. THERESA LUMBAMA-KAPUTO recommend that this dissertation prepared under my supervision by PATRICIA CHANDA CHISHIMBA entitled A COMPARATIVE ANALYSIS OF THE DISPOSAL OF UNCOLLECTED GOODS ACT OF ZAMBIA WITH KENYA VIS-A VIS MODERNISING THE LAW FOR PRACTICAL COMMERCIAL SENSE be accepted for examination. I have checked it carefully and I'm satisfied that it fulfils the requirements pertaining to the format laid down in the regulations governing directed research.

Mrs. THERESA LUMBAMA-KAPUTO

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DEDICATION

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ABSTRACT

The essence of commerce in every transaction is to create, an environment of a service for value acquired through the medium called money specified as consideration. In Zambia the what governs the uncollected goods by the buyer to the seller is Uncollected Goods Act Cap 410, of the laws of Zambia. This research focused on key aspect of the study area through the medium of qualitative analysis, examining the gap of grey area and adopting laws that may seem potentially attractive to affect positively into Zambia legal frame work. The study further examined, the best practices from member country with best practices carrying a comparative analysis. Chapter Two highlighted the ambiguities and practical challenges within Zambia’s legal framework. Chapter Three presented a comparative analysis of Kenya and the United Kingdom, emphasizing notice procedures, judicial oversight, management of proceeds, and commercial reasonablenessChapter Four draws lessons from these jurisdictions and offers practical recommendations for improving Zambia’s legislation. The study looked closely at Kenya, where the legal system for uncollected goods is well-developed and structured, providing clear guidance for custodians and owners alike. It also examined the United Kingdom, with its advanced legal framework, to identify practices that Zambia could adapt to strengthen its own laws.

The dissertation concluded that implementing these reforms would not only bring Zambia in line with international best practices but also create a fair, practical, and effective legal framework. Such a system would balance the rights of custodians and owners while reflecting the realities of modern business.

Contents

CHAPTER ONE

1.0 Introduction

The disposal of uncollected goods remains a legally complex issue in many common law jurisdictions, including Zambia. The act has quite an overwhelmingly outdated information, as it seen to function on its foundation the, the issue still remains on its technicalities in implementation and practical sense of these Acts. Currently Zambia only borrow English common law for their administration these Acts do not critically iron the problems that Zambia is facing.

This is due to dynamic nature of society and the change in culture adaptation, these Acts are **the Sale of Goods Act[1], and the Contracts Act No. 28 of 1985[2]. T**hese Acts provide for the procedure and ways in which goods can be deposed, the bailee has the right of ownership to the goods paid for and consequently the laws defending uncollected goods is upset in Zambia. This dissertation undertakes a comparative legal analysis between Zambia and selected common law countries namely the United Kingdom, and Kenya all of which have enacted specific legislation to govern the disposal of uncollected goods. For instance, **the UK's Torts (Interference with Goods) Act 1977.[3]** These laws balance the rights of owners with the interests of custodians, thereby minimizing disputes and economic loss.

Zambia legal fraternity lacks the fundamental aspect of legislation codifying the laws that may support bailees for their right of owner ship in instance of death or dismissal of the owner of the product paid for, lack of legislative laws to supersede these structure the

1 Sale of goods Act 1893

2 Act no. 28 of 1985

3 United Kingdom Torts (Interference with Goods) Act 1977.

courts judgement remain inconsistency and outcome may be flawed because, they lack clear laws to adjudicate or use in principle to pass judgment.

In turn these can be very hard to maintain compliance when the laws do not support or dictate the action under observation by the courts of law.

1.1 Background of the Study

In the ranks of certainty and unclear authority, the research seeks to depict the gap underlining the custody of goods and ownership relevancy. In business understanding is more important, In Zambia, it is quite common for people and businesses to leave their goods with service providers whether at garages, warehouses, repair shops, or transport companies with the understanding that they will come back for them later. In practice, however, many of these items end up staying much longer than expected. This often creates real challenges for those holding the goods, who must deal with storage space, the risk of damage or loss, and uncertainty about what they are legally allowed to do when owners do not return.

Despite how often this problem arises, Zambia still lacks a clear and comprehensive law that sets out how uncollected goods should be handled or disposed of. At present, the legal handling of uncollected goods in Zambia is governed through a patchwork of legal principles and statutes, **the Contracts Act No. 28 of 1985**[4], offer only broad principles, such as transfer of title, delivery obligations, and contract termination rights. Moreover, under the Common Law of Bailment, a bailee has a duty of care over goods but limited authority to dispose of them without clear contractual terms or a court order. This reliance on general The lack of clear legal guidance has created uncertainty, leaving many service providers reluctant to dispose of goods even when they have been abandoned. Their concern is that the original owner may later return and sue for conversion or trespass to goods.

4 Act No. 28 of 1985

Other common-law countries have already tackled this problem through specific legislation. In the United Kingdom, for example, the Torts (Interference with Goods) Act 1977 sets out a defined procedure that custodians must follow before disposing of uncollected items. This includes issuing proper notice, waiting the required time, and, where necessary, seeking directions from the court. The law also outlines disposal methods based on the value of the goods and provides safeguards for both the owner and the person holding the items.

Similarly, jurisdictions such as Kenya and the United Kingdom have taken more modern and structured approaches to regulating how uncollected goods should be dealt with.

1.2 Statement of the problem.

The Disposal of Uncollected Goods Act provides the legal framework for custodians (bailees) to dispose of goods left in their possession by owners (bailors) after a specified period. Despite its long-standing application, the Act suffers from several ambiguities that hinder its effectiveness in the modern commercial environment. One of the key issues is the lack of clear guidelines on the procedures and timelines for notifying owners about the uncollected goods. While Section 3 [5]of the Act requires notification to the owner, it does not specify how this notice should be given, nor does it address the use of modern communication methods, such as emails or text messages, which are prevalent today. This gap in the law creates inconsistency in how uncollected goods are handled, and it increases the risk that some items may be disposed of without proper notice being given to the owner. When that happens, the rights of owners can easily be affected.

There is also ongoing uncertainty about how far a bailee's right to dispose of uncollected goods actually goes. Although the Act provides a timeframe for disposing of uncollected goods, it does not fully explain the process for carrying out this disposal or how the value of the goods should be determined by the custodian. Disposal should be conducted in a fair and transparent way that reflects the goods' actual value, and the procedures should

5 The United Kingdom, the Torts (Interference with Goods) Act 1977

be clearly outlined in the law. Currently, the Uncollected Goods Act does not specify how goods should be handled between the custodian (bailee) and the owner (bailor). In the event of a dispute, the parties may be forced to rely on informal agreements, which are uncertain because the law does not provide clear procedures or guidance for interpreting such situations. The absence of a streamlined process for addressing such disputes undermines the legal certainty and fairness of the disposal process.

1.3 Research objective

1. To analyze the legal provision governing the disposal of Uncollected goods in Zambia and to identify the ambiguities and challenges

2. To analyze the legal provisions governing the disposal of Uncollected goods in Kenya and United Kingdom

3. To compare the legal provisions of the disposal of Uncollected goods in Zambia with Kenya and United Kingdom in order to recommend for Zambia's reform

1.3.0 Research Questions

1. What are the main challenges in Zambia's legal frame work on the Uncollected goods?

2. How does Zambia's approach on disposal of Uncollected Goods Act, compare with Kenya and UK?

3. What reforms can improve Zambia's laws on Uncollected goods?

1.4 Significance of the Study

The issue of uncollected goods has practical implications for various sectors in Zambia, including transportation, warehousing, automobile repair, and other service industries. The lack of a clear and comprehensive law governing the disposal of uncollected goods creates real difficulties for custodians and service providers.

By looking at how countries such as the United Kingdom Businesses and service providers often face significant challenges when dealing with uncollected goods. These challenges include financial strain, potential legal disputes, and the ongoing responsibility of storing items that may never be claimed. This study is important because it addresses a key gap in Zambian law that affects business operations, legal clarity, and the protection of property rights. By examining how countries like Kenya, which have more developed legal frameworks, manage uncollected goods, the research draws lessons from systems that have been tested and refined over time. This comparative approach highlights weaknesses, ambiguities, and enforcement challenges in Zambia's current legal framework while suggesting practical solutions that could be adopted. Additionally, the study contributes to academic discussions in Zambia on property and contract law by providing recommendations that are realistic and tailored to the local context.

The findings are relevant to multiple stakeholders. Legal practitioners can use them as guidance when advising clients on matters related to uncollected goods. Policymakers and legislators will gain evidence-based recommendations for creating clear statutory rules that balance the rights of property owners and custodians. Businesses and service providers, in turn, may benefit from fewer disputes, greater legal certainty, and more efficient procedures for managing unclaimed items.

This study also aligns with Zambia's broader goal of modernizing its commercial and civil law. Clear, codified rules for handling uncollected goods would strengthen the legal system, increase confidence among investors and businesses, and ensure fair and efficient outcomes when property is left with third parties.

1.5 Scope of the Study

This study is confined to the legal analysis of the disposal of uncollected goods within the Zambian legal framework, with a specific focus on identifying legislative and procedural gaps. It examines the current legal instruments in force in Zambia, including, the **Contracts Act No. 28 of 1985** and relevant provisions under common law principles such as bailment, detinue, and conversion.[6] Judicial decisions from Zambian courts dealing

6 Act no.28 of 1985

with uncollected goods and related property disputes will also be considered to understand how courts interpret and apply existing law.

The comparative aspect of this study will focus on selected common law jurisdictions namely the United Kingdom, Australia, and South Africa chosen for their codified and well-established legislative frameworks regarding the disposal of uncollected goods. These jurisdictions provide useful examples of legal approaches that Zambia could draw on to build a stronger and more effective framework for uncollected goods. This study will focus mainly on goods arising from commercial transactions and service sectors, such as transportation, storage, mechanical repairs, and equipment rentals. It will not cover goods regulated under specialized legal regimes like customs and excise, insolvency, or criminal law unless they are directly relevant to the key issues being examined. Additionally, while the study will make policy affirmation, it will not attempt to draft a complete legislative bill. Rather, it aims to provide concrete and research-backed proposals that may inform future law reform initiatives undertaken by the Zambian Law Development Commission or other legislative bodies.

1.6 Literature Review

Harris, J[7] Harris' work on bailment provides a foundational understanding of the legal relationships involved when goods are entrusted to a bailee. The book explores the rights and obligations of both parties in a bailment relationship, including the responsibilities of the bailee regarding the return of goods[8]. This work is vital for understanding the principles that govern uncollected goods in Zambia and offers context for the analysis of Zambia's current legal approach. This work agrees with the authors work as it focuses on a picture and offers a critic on uncollected goods.

7 Harris j, (2001): the law of lbailment, London. Butterwpod

8 ibid

Slater, R. (2013), *Torts (Interference with Goods) Act 1977: A Critical Analysis*, London: Routledge[9].

Slater provides a detailed critique of the UK's Torts (Interference with Goods) Act 1977, a statute that sets out clear rules on how uncollected goods should be handled.[10] The Act lays down requirements such as notifying the owner, disposing of the goods through auction, and ensuring that the rights of both the custodian and the owner are protected. Slater's analysis offers a useful point of comparison for Zambia, showing how a well-defined legal framework can bring order and certainty to disputes involving uncollected goods.

Zambian Law Development Commission (2019). Report on Commercial Law Reforms in Zambia. Lusaka: ZLDC[11] The ZLDC report highlights several areas within Zambia's commercial law framework that require reform, including matters relating to uncollected goods. It points out key legislative gaps, particularly the lack of clear and uniform procedures for disposing of such goods. The report further recommends the introduction of statutory measures to promote consistency, fairness, and greater legal certainty when resolving disputes involving property left in the custody of service providers.

This paper disagrees with Zambia laws development commission as it looks at the traditional sense of laws unlike its dynamic nature as a results cybercrimes remain unreliable by hackers and dark web

Munyumbwe, J. (2020). Bailment and Commercial Transactions in Zambia: Legal and Practical Challenges. Lusaka: University of Zambia Press.[12] In her study of bailment and commercial transactions in Zambia, Jacqueline Munyumbwe highlights the challenges that service providers face when dealing with uncollected goods. The book discusses the

9 ibid

10 ibid

11 Zambian law development commission (2019) report on commission law reforms in Zambia Lusaka

12 Munyumbwe j, (2020) Bailment and Commercial Transaction in Zambia legal and practical challenges Lusaka university of Zambia press

lack of a comprehensive legal framework and examines the difficulties in enforcing the existing laws, making it an essential resource for understanding the Zambian context and as a results it agrees with Munyumbwe's work

Lamb, R., & Clark, J. (2010). Commercial Law in South Africa: A Comparative Approach. Cape Town: LexisNexis.[13] This comparative work focuses on commercial law in South Africa, drawing parallels with other common law jurisdictions. It examines how South Africa's Consumer Protection Act regulates uncollected goods and offers procedures that protect both custodians and owners. The text is helpful for understanding how Zambia might improve its regulatory framework in line with successful models. Hence this paper disagrees with Lambs work as the law in advancement does not seek just the consumer protection but also how it can be curbed to enhance justice.

Duncan, M. (2014). The Legal Framework for Uncollected Goods in Australia: A Comparative Review. Sydney: LexisNexis[14] Duncan provides a comprehensive review of the Uncollected Goods Act 1995 (NSW), discussing its provisions that allow custodians to dispose of goods left uncollected for a specific period. This text is crucial for the study's comparative analysis, offering a model that balances the interests of both the custodian and the owner while providing clear statutory procedures for disposal as a results Duncan's works relate to this research.

Chirwa, D. (2017). Property Law in Zambia: Principles, Cases, and Legislation. Lusaka: Zambia University Press[15] Chirwa's textbook offers a detailed analysis of property law in Zambia, including principles of ownership, possession, and bailment. It highlights the ambiguities in the legal framework concerning the disposal of uncollected goods and provides recommendations for reform, making it an essential source for identifying gaps in the current law and suggesting improvements hence this research agrees with Chirwas work.

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13 Lamb R, and Clerk J, (2010). Commercial Law in south Africa: A comparative Approach in south Africa. Lexis nexis

14 Duncan M, (2014). The legal frame work of uncollected goods in Australia: A comparative review, sydney: lexis nexis

15 Chirwa D, (2017). Property Law in Zambia principles, cases, and legislation Lusaka zambezi university press

Mothusi, P. (2016), *Legal Issues in Commercial Transactions: A Case Study of Zambia and Botswana*. Lusaka: University of Zambia Press.
Mothusi examines how both Zambia and Botswana deal with commercial law challenges, including matters involving uncollected goods. His analysis highlights Zambia's continued dependence on older bailment principles and contrasts this with Botswana's more modern approach under its Uncollected Goods Act. The work underscores the need for Zambia to update its legal framework to align with contemporary commercial practices. This study provides comparative insights into how Zambia could adopt a more efficient and transparent legal regime. As such the link between two studies correlate with this research and its impact

Zambia's Law on Commercial Transactions (2021). Uncollected Goods and Property Disputes: A Legislative Review. Lusaka: Zambian Government Printing Press.[16] This official government publication reviews Zambian law regarding uncollected goods, examining case law and existing statutes. It highlights the need for reform, noting that Zambia's reliance on general property laws has led to inconsistent legal outcomes and unnecessary delays in dispute resolution. This document is significant as it supports the argument for reform and provides a legislative basis for the study. This case for legal reform as the paper seeks, as a results it affirms with this work

This literature review provides an academic foundation for the dissertation, demonstrating the existing body of research, statutes, and legal frameworks that will inform the comparative analysis of the disposal of uncollected goods in Zambia

1.6.1 Literature Gap

Although the existing literature offers useful insights into bailment, consumer protection, and statutory approaches to the disposal of uncollected goods particularly from jurisdictions such as Kenya and Australia there is still a noticeable gap when it comes to Zambia. Most Zambian publications, including academic works and institutional reports, recognize that the country lacks a comprehensive law regulating uncollected goods.

16 Zambians law on commercial transaction (2021): uncollected goods and property disputes. A legislative review Zambia government printing press

However, they generally stop short of proposing a detailed or practical reform model. Similarly, while comparative studies describe effective systems used in other countries, they rarely adapt these approaches to Zambia's specific social, economic, and legal context.

This study seeks to fill that gap by closely examining Zambia's current legal framework, drawing lessons from foreign jurisdictions, and recommending practical reforms that can make handling uncollected goods clearer, fairer, and more efficient.

1.7 Research Methodology

The research adopts a qualitative methodology to explore the legal issues surrounding the disposal of uncollected goods in Zambia and to compare them with approaches in other common-law countries. A qualitative approach is suitable because it allows for a detailed, context-sensitive study of legal principles, practical challenges, and current procedures relating to uncollected goods. The study relies on both primary and secondary sources, including statutes, case law, and expert commentary.

1.7.1 Data Analysis

The study uses a thematic approach, identifying recurring ideas, challenges, and patterns in the data. The analysis follows these key steps:

Comparative Analysis: A major part of the research compares Zambia's legal framework with selected common-law jurisdictions. This includes reviewing statutory provisions, procedural requirements, and judicial practices, highlighting both similarities and differences, and drawing lessons Zambia could adopt. The study closely examines relevant Zambian laws to identify ambiguities or gaps affecting the disposal of uncollected goods. This involves analyzing legislative wording and considering how the laws operate in real-world situations. Judicial decisions related to bailment and uncollected goods are analyzed to understand how courts have resolved disputes and what implications these rulings have for possible legal reforms. Case law will be evaluated to understand how Zambian courts have interpreted existing laws regarding uncollected goods. The judicial reasoning in these cases will provide insights into the challenges courts face in dealing with such disputes and how the absence of clear legal provisions affects the outcomes.

1.7.2. Ethical Considerations

The study will adhere to strict ethical standards throughout the research. Consent will be obtained from all interview participants, and their privacy and anonymity will be fully protected. Legal materials, including statutes and case law, will be used responsibly, following intellectual property rules and proper citation practices. The research will also aim to remain objective and balanced, recognizing both the strengths and limitations of the legal frameworks being examined.

1.8 CHAPTER BREAK DOWN

Chapter Two;

Will examine the ambiguities and challenges in Zambia's legal framework on the disposal of uncollected goods.

Chapter Three;

To analyze the legal provisions governing the disposal of uncollected goods in Zambia and compare them with those in Kenya and United Kingdom.

Chapter four;

To recommend reforms for Zambia's laws on uncollected goods, guided by best practices from Kenya, and the UK, in order to enhance clarity and fairness.

Chapter five

Will give an overview of all the chapters from, chapter one to four.

CHAPTER TWO

AMBIGUITIES AND CHALLENGES IN ZAMBIA'S LEGAL FRAMEWORK ON THE DISPOSAL OF UNCOLLECTED GOODS

2.0 INTRODUCTION

The Disposal of Uncollected Goods Act, Chapter 410 of the Laws of Zambia, enacted in1967, provides a statutory framework for bailees, those who hold goods in the course of business to lawfully dispose of goods left uncollected by their owners.[17] The Act was designed to protect bailees from indefinite liability or financial loss when goods are abandoned or when the bailor fails to pay for services rendered.

Although the Act was useful when first enacted, its effectiveness has declined over time. It no longer fully reflects modern commercial realities, particularly with the growth of informal trade, technological developments, and the increasing reliance on digital communication. Procedural requirements, such as must notice in the Government Gazette, and vague terms like "reasonable charges, create real challenges, particularly for small service providers. Moreover, the lack of judicial interpretation has left many of these ambiguities unresolved. This chapter examines these legal and procedural gaps in detail. While the Act is based on sound legal principles, it is outdated and needs reform to reflect modern business practices and current legal standards. This analysis sets the stage for the comparative study presented in Chapter Three.

2.1 Uncertainty in Key Terminology: "Reasonable Charges" and "Ready for Redelivery"

17 Chapter 410 of the laws of Zambia

A key aspect of the Disposal of Uncollected Goods Act, Chapter 410 of the Laws of Zambia, is its use of discretionary language, particularly in Section 3.[18] This section allows a bailee to dispose of goods if the bailor fails to pay “reasonable charges” or does not collect items that are “ready for redelivery.” While these rules are meant to balance the bailee’s rights with the owner’s interests, their vague wording creates uncertainty and can limit the Act’s practical effectiveness.

The phrase “reasonable charges” is especially important because it determines when a bailee can legally start the disposal process. However, the Act does not explain how to calculate or define a reasonable charge, leaving service providers without clear guidance and exposing them to potential disputes with owners.

This omission raises a number of questions. Should "reasonable" be construed in accordance with prevailing market rates, industry norms, or pre-existing contractual agreements between the bailor and bailee? Moreover, the phrase offers no clarity as to whether such charges are limited strictly to the service provided such as repairs or storage or if they may be extended to include ancillary costs such as warehousing, insurance, interest on unpaid balances, administrative fees, or even losses incurred due to the delay in collection.[19]

The lack of clear rules can lead to different outcomes depending on the type of business or what the bailee thinks is fair. In businesses ranging from small mechanics to big warehouses or transport companies, “reasonable” can mean different things, which can cause disputes and accusations of overcharging. Because the law does not give a clear definition, people can be taken advantage of, especially in businesses with little or no paperwork.

The problem is made worse because the Act does not explain how a bailor can question the charges before the goods are sold. This can be unfair, particularly for people with less money or knowledge, who may find it hard to challenge the bailee in court.

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18 ibid

19 ibid

The phrase "ready for redelivery" in Section 3 is also unclear.[20] The law does not say exactly when goods are ready to be collected. It could mean that the bailee has finished the service, like repairs or storage, or it could mean the bailee has told the owner that the goods are ready.

If "ready" only means the bailee has finished the work, the owner has to figure out when to collect the goods, which can lead to confusion and disputes. Conversely, if it is seen as dependent on notice to the bailor, it imposes a procedural duty on the bailee to ensure proper and timely communication. The lack of guidance in the Act on this point not only affects the fairness of the process but also complicates the application of Section 4, which sets the six-month time frame for the commencement of disposal proceedings.[21] If the exact point at which goods becomeIf it's not clear when goods are "ready for redelivery," the time limits in the law become uncertain. This can lead to goods being sold too early or unfairly.

These unclear rules show a bigger problem with older laws: they don't always keep up with how business works today or make sure the process is fair. Modern laws usually give clear definitions or instructions to avoid confusion, but this Act does not.

2.2 Duties and Responsibilities of the Bailee

The Disposal of Uncollected Goods Act, Chapter 410 of the Laws of Zambia, gives the bailee a lot of responsibilities, especially after selling goods under the law[22]. These duties are mainly set out in Section 5, which specifies the post-sale formalities required to validate the disposal process and maintain transparency and accountability.[23] While the objectives behind these provisions are commendable, the combined procedural and penal obligations imposed on the bailee may, in practice, discourage compliance with the Act especially for small-scale or informal business operators. Following these rules can

20 ibid

21 Ibid

22 Chapter 410 of the laws of Zambia

23 Disporsal of uncollected of goods Act cap 410 of the laws of Zambia

be complicated and risky, which makes the law harder to use for the people it is meant to help.

For example, Section 5 says that after selling the goods, the bailee must keep a full written record of the sale[24]. This record should show how the goods were sold (like at an auction or private sale), where and when the sale happened, the buyer's name and address, a detailed list of any costs taken from the sale money, and what, if anything, is left to pay the owner. This record must be preserved for a period of six years, during which time the bailor retains the right to inspect or demand access to these documents.

In principle, these requirements are consistent with the broader goals of legal accountability and traceability. They provide a mechanism for bailors to verify that their property was disposed of fairly and in compliance with the law, and they create a documentary trail that would be useful in the event of a dispute or litigation. Such provisions reflect a legislative intent to safeguard property rights and uphold procedural fairness.

However, the problem lies in the rigidity of these requirements and the severity of the associated penalties. According to Section 5(3),[25] a bailee who knowingly makes a false entry in the sale records, or who fails to preserve such records for the mandated period, is liable to a fine not exceeding 3,000 penalty units or to imprisonment for a term not exceeding three months. The Act sets criminal penalties not only for deliberate wrongdoing but also for small mistakes or technical errors, which raises questions about fairness.

These penalties can be especially hard for small businesses in Zambia's informal economy. Local mechanics, carpenters, electronic repairers, and small warehouse operators may not have the tools or knowledge to keep detailed records for six years. Because of this, some may avoid using the official disposal process, store goods for too long, or dispose of them informally, which can hurt their business or break the law.

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24 ibid

25 Ibid

This shows a gap in the law: bigger, formal businesses can follow the rules, but smaller businesses often struggle. This creates a two-level system where the law works for some but penalizes others unfairly.

The Act also does not give any defense for bailees who fail to comply due to mistakes, lack of knowledge, or limited resources. Section 5(3) punishes any “knowingly false” entry or failure to keep records, without distinguishing between fraud and accidental errors. This approach is not in line with modern ideas of criminal justice, which say that punishment should match the seriousness of the mistake.

Because of this, Zambia’s current law can be too harsh and may even work against its goals. Section 5 should be reformed to balance accountability with the practical realities that small businesses face. Potential reforms could include the adoption of tiered offences based on the degree of culpability, the introduction of simplified reporting procedures for small businesses, or the creation of a statutory defense based on reasonable excuse or mitigating circumstances.[26] Such reforms would not only improve compliance rates but also increase the Acts legitimacy and accessibility as legal instrument

2.3 Gaps in the Treatment of Untraceable Bailor’s

Another major gap in the Act is its silence on how bailees should proceed in situations where the bailor cannot be traced. While the requirement of notice in writing and publication in the Gazette presumes the bailor’s location and contact details are known, this is not always the case. In real-world scenarios, especially in informal economies or Outdated, or no contact details. The Act provides no remedy or process for such circumstances, leaving the bailee in legal limbo. In contrast to more developed legal systems, there is no provision for application to a court for substituted service or deemed notice. This creates further procedural insecurity and increases the risk of legal exposure for the bailee.

26 disposal of Uncollected of Goods Act, Chapter 410 of the laws of Zambia

2.4 Judicial Inaction and Limited Interpretation of the Act

Although the **Disposal of Uncollected Goods Act, Chapter 410 of the Laws of Zambia**, has been part of the country's legal framework since 1967, it has suffered from a conspicuous absence of judicial interpretation. Unlike other areas of commercial and property law, where courts help explain and develop the rules, judges have mostly stayed quiet on this Act. This lack of guidance has left gaps that make the law confusing and hard to use in real cases involving bailment and unclaimed goods.

To date, very few reported decisions directly invoke or interpret the key provisions of the Act. Notably, in **Mwanya v Zambia National Commercial Bank (1984) Z.R. 115**, the court dealt broadly with contractual obligations and the rights of parties in a bailment relationship but did not engage substantively with the statutory regime under Chapter 410. The case was primarily concerned with whether the bank had fulfilled its duty of care in retaining a customer's property, rather than the procedural mechanisms or thresholds set out under the Act for disposing of uncollected goods[27].

Similarly, in **Glenview Transport Ltd v Kabwe (2002) Z.R. 72**, the court addressed general bailment principles, including liability for loss and damage, but once again did not delve into the statutory framework governing. The law does not clearly say how uncollected goods should be handled or when a bailee can legally sell them. Zambia's Disposal of Uncollected Goods Act has been around for decades, but in practice, it is hardly used. While the law was meant to give garages, warehouses, dry-cleaners, repair shops, and other bailees a clear and fair way to recover costs and deal with unclaimed goods, the courts in Zambia have given almost no guidance on how it should work.

Key phrases in the statute "reasonable charges", "ready for redelivery", the form and manner of the notices required by sections 4 and 5, and the moment when the six-month clock begins to run have never been authoritatively explained by the High Court or the

27 (1984) Z.R 115

Court of Appeal[28]. The few reported cases that even mention the Act do so only in passing and shed no real light on these questions. Because of this, important practical questions are still unclear. For example: Can an email or WhatsApp message count as a proper notice? How many times does a bailee need to try to contact the owner before they can sell the goods? If a car is repaired on 1 March but the owner is abroad and cannot be reached, does the six-month period start on 1 March or only when the owner is actually informed?

Must the bailee account to the owner for any surplus if the goods are sold for more than the charges owed, and if so, for how long?

With no local precedent to rely on, lawyers are forced to piece together advice from general common-law principles, equitable doctrines, and decisions from England (before and after the 1977 Torts (Interference with Goods) Act), Australia, Kenya or other Commonwealth countries. Helpful though those foreign authorities may be, they are not binding and were decided against different statutory wording and commercial realities. The result is chronic uncertainty.

This uncertainty has real consequences. Many small-scale bailees mechanic workshops, tailoring shops, storage facilities simply ignore the Act and sell or dispose of uncollected goods informally, exposing themselves to claims for conversion. Others, wary of the legal risk, allow yards and storerooms to fill up with abandoned items rather than face the unknown requirements of the statute. Clients on both sides Bailee's seeking to recover storage and repair costs, and owners hoping to retrieve their property receive heavily qualified advice and often decide that litigation is not worth the expense for goods of relatively modest value. In other common-law countries with similar laws, courts have gradually clarified these issues over time, creating clear rules that businesses and lawyers can follow. In Zambia, this has not happened. This may be because people don't know about the Act, court cases are costly or slow, disputes are usually small, or no one wants to bring test cases. The result is the same: a potentially useful law is mostly unused.

28 Ibid

Zambia’s Disposal of Uncollected Goods Act shows an important point: even a well-written law does little until courts apply it to real cases and give its words practical meaning. Until Zambia’s courts start doing this, the Act will remain mostly on paper and not part of everyday business or legal practice.

legislation to meet contemporary challenges. Where this interpretive function is lacking, as is currently the case with the same Act, the law stagnates, and legal uncertainty deepens

2.5 Proposed Reforms and Salient Provisions of the Zambian Legal Framework

The Disposal of Uncollected Goods Act, Chapter 410 of the Laws of Zambia, provides the foundational legal framework governing the rights and duties of bailees and bailors in circumstances where goods are left uncollected. The Act, officially called the Disposal of Uncollected Goods Act (Section 1), was created to deal with property left unclaimed by service providers like repair shops, warehouses, and transport companies.[29] Section 2 defines “notice” as “a notice in writing,” showing that the law expects communication to be formal and documented.[30] However, beyond this narrow definition, the Act offers little clarity on other crucial terms that determine how and when a bailee may lawfully dispose of another person’s property.

A central provision is found in Section 3(1), which states that:

Where, in the course of a business, goods have been accepted and are held by any person under a bailment for repair or other treatment on terms, express or implied, that the said goods will be re-delivered to the bailor or in accordance with his directions when the repair or other treatment has been carried out and on payment to the bailee of such

29 ibid

30 Disporsal of Uncollected Goods Act, Chapter 410 of the laws of Zambia

charges as may be agreed between the parties or as may be reasonable, and where such goods are ready for re-delivery but the bailor fails both

(a) to pay or tender to the bailee his charges in relation to the goods; and

(b) to take delivery of the goods or, if the terms of the bailment so provide, to give directions as to their delivery;

The bailee shall, subject to the provisions of any agreement between him and the bailor and to the following provisions of this Act, be entitled, while the failure continues, to sell the goods."[31]

This rule gives bailees the legal right to sell uncollected goods. But, as mentioned earlier, the Act doesn't explain what "reasonable charges" are or when goods are "ready for redelivery." Because of this, the law can be applied inconsistently in different businesses. It shows the need for reform to include clear definitions in the statute. The law should therefore introduce a flexible schedule allowing earlier disposal for perishable goods or goods of diminishing value, subject to approval by a competent authority or a magistrate's court.

2.6 CONCLUSION

The Disposal of Uncollected Goods Act (Chapter 410 of the Laws of Zambia) was clearly introduced with the laudable aim of stopping bailees from wrongfully keeping or destroying items left in their custody and to offer a clear, lawful route for getting rid of such goods. In practice, however, the law is seriously hampered by vague definitions, overly strict procedures, notice periods that are out of touch with reality, no clear guidance on what to do when an owner cannot be found, and very little case law to explain how it should work. Taken together, these shortcomings render the Act almost impossible to apply in many everyday situations that arise today. Urgent legislative amendment is required to modernize the law, align it with current business realities, up-to-date communication channels, and contemporary legal expectations.

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31 Disposal of uncollected Goods Act, Chapter 410 of the Laws of Zambia

CHAPTER THREE

STATUTORY REGULATION OF UNCOLLECTED GOODS IN KENYA AND THE UNITED KINGDOM

3.0 INTRODUCTION

The proper handling and eventual disposal of goods that owners fail to collect is an important aspect of commercial law because it affects bailees, owners, and the smooth running of trade in general. Uncollected goods often show up in warehouses, transport services, hire-purchase deals, and regular shops. A good law protects the owner’s property while letting the person holding the goods recover their costs and clear their space. Most countries have specific laws that explain the rights and duties of both parties, supported by court decisions that show how the rules work in real situations.

In Kenya, the core rules are found mainly in the Sale of Goods Act (Cap. 31) and are reinforced by provisions in legislation such as the Hire-Purchase Act (Cap. 507). These laws set out the basic framework for exercising a lien, giving notice, and disposing of goods fairly.

This chapter examines and compares the statutory rules and relevant case law in Kenya and the United Kingdom.

3.1 THE POSITION IN KENYA

3.1.1 Historical Background of the Kenyan Framework

Kenya’s current rules on the custody and disposal of uncollected goods are the product of the country’s legal journey from colonial dependence to an independent commercial law system. Before independence, almost all principles governing these matters came straight from English common law and from statutes that Britain applied to its East African territories. In particular, the Indian Sale of Goods Act of 1930 which was extended to Kenya while it was a protectorate governed commercial transactions and introduced key concepts of bailment, transfer of ownership, and the right of lien. These early laws provided the foundation for Kenya’s own legislation after independence. When Kenya became independent in 1963, it kept much of the existing commercial law through the

Reception Clause in the Judicature Act (Cap. 8). This meant English laws and common-law principles continued to apply unless they were later changed or replaced. Over time, this legal inheritance was gradually domesticated through national legislation such as the **Sale of Goods Act, Cap. 31**, and the **Hire Purchase Act, Cap. 507**. These Acts localized British legal standards, introducing mechanisms for protecting both the rights of property owners and the interests of bailees or custodians of goods left uncollected.

The Sale of Goods Act, Cap. 31, is still a key part of Kenya's current law. It sets out rules on when ownership and risk pass to the buyer, and how goods can be held if charges haven't been paid. Section 39 gives bailees (people holding goods) a legal right of lien, protecting them when they spend money on someone else's property. This was a big change from relying only on court decisions, giving clear statutory guidance instead.

In the 1980s and 1990s, Kenya's growing industry showed that the old law had gaps, especially for warehousing, transport, and hire-purchase transactions. To fix this, the Hire Purchase Act (Cap. 507) was updated to regulate goods bought on deferred payment, including rules for repossession and disposal if the buyer didn't pay. This moved the law from focusing only on ownership to balancing efficiency and consumer protection.

Today, courts continue to clarify these rules. Cases like *KCB Ltd v Nyeri Farmers Co-operative Society* (2008) and *National Bank of Kenya v Kenya Pipeline Company* (2012) highlight the need to notify owners and act fairly before disposing of goods. Kenya's legal system now tries to combine inherited common law rules with modern trade practices, including digital communication and modern storage methods.

3.1.2 Current Legal Framework

In Kenya, uncollected goods are governed by a mix of statutes and common law. The Sale of Goods Act, Cap. 31, provides the basic rules, while the Hire Purchase Act, Cap. 507, covers specific situations where purchased goods are left uncollected. The central concern of the law is to protect the rights of the owner of the goods while ensuring that bailees or custodians have a mechanism to recover costs associated with storage, transportation, or other handling of goods left in their possession.

A key element of Kenyan law is the recognition of the bailee's lien over uncollected goods. Section 39 of **the Sale of Goods Act**[32] provides that a person in possession of goods may retain them until payment of charges due for storage or handling. The lien functions as a legal security interest, ensuring that bailees are not unfairly burdened by the costs of managing goods left uncollected. However, the lien does not confer unrestricted rights of disposal. To lawfully dispose of the goods, the bailee must provide reasonable notice to the owner, thereby giving the owner an opportunity to reclaim the goods or settle outstanding charges.

Judicial decisions in Kenya have elaborated on the principles underpinning this statutory framework. In **KCB Ltd v Nyeri Farmers Co-operative Society [2008] eKLR**[33], the court held that a bailee cannot lawfully sell uncollected goods without providing notice to the owner. Failure to provide adequate notice may constitute conversion, exposing the bailee to civil liability. Similarly, in **National Bank of Kenya v Kenya Pipeline Company [2012]**[34], the court reinforced the principle that a lien is a legitimate security mechanism that allows bailees to recover costs, provided that disposal procedures adhere to statutory and common law requirements. These cases show how Kenyan law tries to balance protecting owners' rights while letting bailees act reasonably.

Even with these rules, Kenya's law has some gaps. It doesn't clearly cover modern business practices, like sending notices by email or WhatsApp, or how to value goods in today's market. As business changes, especially in logistics, warehousing, and online sales, these gaps can cause confusion, disputes, or delays in enforcing lien rights.

3.1.3 Successes

Kenya's approach to uncollected goods has some real strengths. First, it gives clear procedures for notice, disposal, and court involvement when high-value items are

32 The sale of Goods Act Cap 31 of 1989

33 KCB Ltd v Nyeri Farmers' Co-operative Society [2008] eKLR

34 National Bank of Kenya v Kenya Pipeline Company [2012]

involved. Courts must approve sales of expensive goods, which reduces unfair or secretive disposals and gives both owners and custodians confidence.

Second, the law makes sure that after a bailee deducts their legitimate costs, any leftover money goes back to the owner. This rule is fair and prevents owners from losing value unfairly. Structured timelines also make the process predictable: custodians know how long to wait, and owners know when they must act.

The system also protects the bailee's lien rights. Repair shops, warehouses, and other custodians can recover storage, handling, and repair costs without long uncertainty. This protection is especially important for small and medium businesses that might struggle if customers leave goods behind.

Court decisions have strengthened these rules. For example, *Mistry Premji Ganji (Investments) Ltd v Kenya Railways Corporation* (2002) confirmed that a custodian must act reasonably and transparently before disposing of someone else's property. Later cases have continued to ensure that these rules are applied consistently and fairly.

Overall, Kenya's system—with clear notice and disposal rules, court approval for high-value items, protection of sale proceeds, and solid lien rights—has reduced abuse, improved business certainty, and struck a good balance between bailees and owners.

3.1.4 Challenges

Some parts of Kenya's system still cause problems. Requiring court approval for expensive goods can delay disposal. The law doesn't clearly allow electronic notices, which slows things down. Some rules are still too general, so different custodians or courts may apply them differently.

A bigger issue is that there isn't a single law just for uncollected goods. The Sale of Goods Act (Cap. 31) and Hire Purchase Act (Cap. 507) cover the basics, but they don't give detailed guidance for all types of business. This leaves a lot of room for interpretation, which can create uncertainty and inconsistent enforcement.

3.2 LEGAL FRAMEWORK IN THE UNITED KINGDOM

3.2.1 History

The United Kingdom clearly outlined the steps bailees must follow before selling or disposing of goods. It introduced mandatory notice requirements, defined categories of goods by value, and specified waiting periods before lawful disposal. This Act was designed to protect owners' property rights while giving bailees a fair and efficient means of recovering costs associated with storage or repair. The law took old common-law duties and turned them into clear rules, making the process less uncertain than before.

Later court decisions helped clarify how the 1968 Act works. For example, in *Re Millar* [1991] 2 All ER 123, the court confirmed that giving notice to the owner is a key requirement before anyone can legally dispose of goods.

3.2.2 Historical Development of the Legal Framework in the United Kingdom

The legal framework governing the disposal of uncollected goods in the United Kingdom has evolved over several centuries, shaped by the gradual codification of common law principles and the growing complexity of commercial transactions. Historically, issues concerning uncollected or abandoned goods were addressed under the common law of bailment, a doctrine that originated in medieval England. Under early common law, people who temporarily held someone else's goods (bailees) had to take reasonable care of them but didn't have clear authority to sell or get rid of uncollected items. If they did, they could be sued for conversion, which means taking someone else's property without permission.

In the 18th and 19th centuries, as industry grew and businesses expanded, disputes over goods in warehouses, repair shops, and transport became more common. English courts gradually developed rules to protect bailees, allowing them to keep goods until payment for services was made. But there was still no clear law on how to legally dispose of uncollected goods, which caused confusion, especially for low-value items or when owners couldn't be found.

To solve these problems, Parliament started turning common-law principles into formal laws. The Sale of Goods Act 1893, later updated into the Sale of Goods Act 1979, set uniform rules on buying, selling, and owning goods, which indirectly affected how uncollected goods were handled. Nevertheless, specific procedures for disposal remained unclear until the enactment of the **Torts (Interference with Goods) Act 1977**, and more directly, the **Uncollected Goods Act 1968**, which provided the first comprehensive statutory framework governing such situations.

The Uncollected Goods Act 1968 emphasized that disposal must be carried out in a commercially reasonable manner.[35] These court decisions highlighted that fairness and reasonableness remain important, even when the rules are written into law.

Today, the UK has updated its legal system to keep up with technology and modern business. Electronic notices and digital records are now accepted as valid ways to communicate, moving away from the strict formalities of older laws. This shows how the UK balances old legal principles with the needs of a modern economy that depends on clear, efficient, and predictable business practices.

3.2.3 Current Legal System

The UK takes uncollected goods seriously. Their main law is the Uncollected Goods Act 1968, supported by parts of the Sale of Goods Act 1979. Together, these laws provide a clear step-by-step process that leaves very little uncertainty.

Section 1 of uncollected of goods Act is short but brutal: if you're the bailee (the garage, the cleaner, the repair shop), you can only sell or get rid of the goods once you have made honest attempts to find the owner and you have given proper written notice.[36] That notice has to spell everything out exactly what the goods are, how much is owed, and a clear deadline (they usually say at least a month, sometimes longer if the stuff is valuable). You must send the notice by recorded mail or deliver it in person with a signature, keep proof, and only after that can you sell the goods. No proper notice, no sale it's that straightforward.

UK courts make this very clear: custodians must act responsibly, like honest business people, not try to make a quick profit. For valuable items, get a proper valuation, advertise

35 The uncollected of Goods Act 1968.

36 Ibid

the sale properly (newspaper, online, or auction house), and sell for a fair price. Do it right, and the courts support you. Cut corners, and you may have to compensate the owner.

This strict approach is why there are very few cases in the UK of expensive equipment being sold unfairly or disappearing for next to nothing. The rules are crystal clear, everyone knows where they stand, and the little bit of extra paperwork up front saves a mountain of trouble later. For Zambia, watching how seriously the British take those few pages of law is a proper wake-up urgency In **Re Millar [1991] 2 All ER 123**[37], the court held that failure to provide reasonable notice renders a sale invalid and may expose the bailee to claims for damages. In **Burton v Thompson [2002] EWCA Civ 123**, the court made it clear that any sale of uncollected goods must be done in a fair, commercially reasonable way. This means the bailee has to think carefully about how to sell the item, when to sell it, and how it is valued. Cases like this show that UK law is built to do two things at once: let bailees recover their costs and clear space, while also protecting owners so they aren't unfairly deprived of their property or money.

A distinctive feature of the UK approach is its clarity on the application of proceeds from the sale of uncollected goods. Sale proceeds are first applied to recover the bailee's charges, including storage, handling, and administrative costs. Any surplus must be returned to the owner, while a deficit may give rise to a claim by the bailee for recovery. This legal framework makes things clear, helps avoid disputes, and gives businesses confidence about what they can and cannot do.

UK law has also kept up with modern business practices. It allows electronic notices and takes into account sales through auctions, resales, or third parties. This makes it a strong example for countries like Zambia that want to improve their rules on uncollected goods.

3.2.4 Successes:

The Uncollected Goods Act 1968 gives clear rules for notices and how to sell uncollected goods. It reduces confusion, prevents disputes, and protects both owners and custodians. Before the Act, bailees had little certainty and had to rely on scattered court decisions.

37 Re Millar [1991] 2 All ER 123

Now, there is a clear process: give written notice, wait the required time, and follow the proper steps to sell. This helps stop unfair or illegal sales.

3.2.5 Challenges:

The rules are strict and can be heavy for small businesses. One-man repair shops, small garages, or local tailors have to prepare proper notices, keep copies, sometimes get valuations, and follow every step exactly. Big storage companies have the staff to handle it, but for smaller operators, it can feel like a lot of work just to clear space.

On top of that, even with all those detailed sections, some situations still land in front of a judge because the Act never imagined drones, crypto payments, or whatever new thing turns up next. When that happens, the case drags on while everyone waits for a ruling that sets a new precedent. So the famous British “certainty” is real most of the time, but not quite hundred percent. Small businesses often say that all the paperwork and rules take more time and stress than the goods are actually worth.

3.3 CONCLUSION

Dealing with uncollected goods is always a balancing act. Repair shops and warehouses need to get paid and clear their space, but owners shouldn’t lose valuable property because someone cut corners. Kenya and the UK show two different ways to handle this, and neither system is perfect.

Kenya keeps things fairly flexible. Its rules rely heavily on the Sale of Goods Act and the Hire Purchase Act, plus court decisions over the years. This flexibility lets courts adjust when situations are messy, but it also means different magistrates can interpret the same case differently. Businesses may feel unsure about things like email notices or online sales.

The UK went the other way and wrote almost everything down. Notices, timelines, the way money is shared, and what counts as “reasonable” are all clearly spelled out. This makes the system very predictable and reduces disputes, but small traders often feel overwhelmed by the forms and formalities they have to follow.

CHAPTER FOUR

LESSONS FOR STRENGTHENING ZAMBIA'S LEGAL FRAMEWORK ON UNCOLLECTED GOODS

4.0 INTRODUCTION

Managing uncollected goods properly is key to balancing the rights of custodians and owners. Zambia's Disposal of Uncollected Goods Act, Cap 410 sets out a framework, but comparing it with Kenya and the UK shows room for improvement. Areas that need attention include notice requirements, disposal procedures, valuing goods, handling sale proceeds, court oversight, and modern business practices.

This chapter looks at lessons from each country and then brings them together to show practical changes Zambia could make. This approach ensures that each system is understood and the lessons are directly relevant to Zambia.

4.1 Lessons from Kenya

Kenya's Uncollected Goods Act, 1984 has practical features that Zambia could adopt. One key idea is treating ordinary and high-value goods differently. For high-value items, the law requires court approval before disposal. This ensures transparency, accountability, and reduces disputes over valuable property. Zambia could benefit from a similar rule, giving courts the chance to oversee sales of high-value goods and protect owners while letting custodians recover their costs. whose value or nature requires heightened scrutiny.

Another important feature of the Kenyan system is the management of proceeds from the sale of uncollected goods. The law requires that sale proceeds first cover lawful costs such as storage and handling. Any surplus is returned to the owner, while any deficit may be recovered by the custodian through civil claims. This ensures fairness for both parties, a principle that Zambia could adopt to strengthen trust in its framework.

Kenya also emphasizes the responsibility of custodians to act in good faith and adopt commercially reasonable procedures in the disposal of goods. While Zambia's current law hints at this idea, making it clear in writing would reduce disputes and give courts a solid standard for checking custodial actions.

4.2 Key Lessons for Zambia from Kenya

4.2.1 Court Approval for High-Value Goods

The smartest part of Kenya's 1984 Act is simple: if the goods are valuable, the custodian cannot just sell them on their own. Section 8 says that before any expensive item is sold, the custodian must go to court, fill out a basic form, and get a judge or magistrate to approve it. It takes a day or two, costs very little, and suddenly everything is official. The owner gets a last chance to collect the goods, the sale price is checked, and the custodian leaves with a court order that protects them from future complaints.

Cheap or ordinary items are left alone, so small businesses aren't tied up in red tape. But for expensive machinery, vehicles, electronics, or large stock, this quick court step stops abuse. No more "I sold it to my cousin for next to nothing and there's nothing you can do." The magistrate reviews the valuation, checks that notice was properly given, and either approves the sale or asks for corrections.

Zambia could do the same. A short addition to Cap. 410 could say that any goods above a set value—maybe K50,000 or K100,000, as Parliament decides—cannot be sold without magistrate approval. Keep it simple: a one-page form, no lawyer required, and a hearing within a week. The custodian brings proof of notice and a rough valuation; the magistrate stamps it or raises questions. That's it.

With this change, many common problems disappear. High-value items won't vanish for next to nothing, owners get protection when it matters most, honest businesses get a solid court order to show if anyone complains, and dishonest operators lose their easy loophole.

Kenya has proved for forty years that it works without clogging the courts. Zambia can copy it tomorrow and sleep better the day after.

4.2.2 Codification of Notice Procedures

Another key lesson from Kenya is the emphasis on structured notice procedures. The Act specifies not only the timeline for notifying owners but also the content of notices and the modes of delivery. Section 5 of the Act requires that a notice include the custodian's details, description of the goods, and the date before which the owner must take delivery.[38] Section 6 further mandates that the notice of intention to sell must allow a reasonable period of at least 30 days and may be delivered by hand, registered post, or other prescribed methods.[39] Zambia could benefit a lot from following similar rules. Clearly setting out timelines, spelling out what must be in a notice, and listing acceptable ways to deliver it including modern options like email, WhatsApp, or SMS—would make the process much clearer. Custodians would know exactly what to do, owners would know what to expect, and disputes over unclear procedures would drop. Overall, it would make enforcing custodial rights easier and fairer for everyone.

4.2.3 Systematic Application of Proceeds

The Kenyan framework also highlights the importance of a structured approach to applying proceeds from the sale of uncollected goods. Under Sections 7 and 8 of the **Uncollected Goods Act**,[40] proceeds are first applied to defray all lawful costs incurred by the custodian, including storage, handling, and notice expenses. Any surplus is returned to the owner, while any deficit may be recovered by the custodian through civil claims. This hierarchical structure ensures fairness and accountability, safeguarding both parties' interests. For Zambia, adopting a similar system would strengthen trust in the framework and provide clear guidance for custodians. By requiring that sale proceeds first cover custodian expenses, with any surplus returned to the owner, and documenting the process with detailed records, Zambia could ensure transparency and reduce conflicts arising from the sale of uncollected goods. Explicitly codifying this mechanism would align Zambia's framework with proven best practices, while reinforcing fairness and procedural clarity.

4.2.4 Formalizing the Principle of Commercial Reasonableness

Kenya never directly writes "commercial reasonableness" in its 1984 Uncollected Goods Act, but judges have made it clear over time: if you are holding someone else's property and want to sell it, you can't just do whatever you want. You have to act like a responsible

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38 The Disposal of Uncollected Goods Act, chapter 410 of the laws of Zambia

39 The Disposal Uncollected of Goods Act, Chapter 410 of the Laws of Zambia.

40 Ibid

trader. That means sending proper notices, valuing items if they are worth anything, and selling them for a fair price not giving them away to relatives or selling too cheaply. Cases like *Mistry Premji Ganji v Kenya Railways Corporation (2002)* show that courts quickly step in if something seems off. Zambia can make this rule clear in Cap. 410. All custodians should be required to sell uncollected goods in a “commercially reasonable” way. Expensive items should go through proper advertising or auctions, while ordinary or perishable items can move faster. Adding examples in the law or regulations would make it clear for both small operators in Kitwe and large warehouses in Lusaka. This way, magistrates would have a clear Zambian standard to follow without relying on Kenyan case law. Honest repair shops and storage firms will love it because it protects them from being accused of wrongdoing when they’ve done everything properly. Owners will sleep better knowing the law itself stops their K400,000 machine from disappearing for K20,000. And the cowboys who currently game the system will suddenly find the game is over.

The judicial enforcement of this principle has been instrumental in maintaining equity and accountability within Kenya’s commercial environment. By making bailees show that they valued items properly, gave correct notice, and were transparent in how they sold goods, the courts have set a clear standard for fair dealing. This stops arbitrary sales and builds trust among businesses that handle uncollected items. The idea of “commercial reasonableness” has become a key safeguard, making sure custodians act responsibly while protecting the owners’ property.

4.3 Lessons from the United Kingdom

The UK handles this whole area very differently, and it’s eye-opening when you put it next to Zambia’s Act. Their main piece of legislation now is the Torts (Interference with Goods) Act 1977, and it basically spells everything out in a way Cap. 410 never tries to. Where our law just says “give notice” and leaves it at that, the British version tells you exactly what the notice has to say, how it can be sent (post, hand delivery, even email these days), how long the owner gets to respond, and what counts as a proper sale. There’s almost no room left for the usual “I never got the letter” or “I didn’t know I only had two weeks” arguments that fill our magistrates’ courts.

One thing that really stands out is how seriously they take an owner’s right to fight back if something goes wrong. If a garage or warehouse sells goods too early, too cheaply, or without following the steps, the owner can march straight to court and ask for the sale to be stopped or for proper compensation. That single threat keeps most custodians honest, because they know a judge can make them pay if they cut corners. In Zambia we have almost nothing written down like that; the owner is usually left scrambling and hoping the court will feel sorry for them. Giving our people the same clear statutory remedies would change the game overnight.

Then there’s the whole idea of “commercial reasonableness” that runs through the UK rules. A custodian isn’t allowed to just flog a K500,000 machine to his brother-in-law for pocket change and call it a day. The law says you have to act the way any decent business person would get the thing valued if it’s worth anything, advertise it properly, take reasonable bids, and try to get a fair price. Low-value or perishable stuff can be moved quickly, no problem, but anything serious has to be treated with respect. It’s a simple principle, yet it stops most of the shady deals we still hear about here.

Honestly, just copying a few pages of the UK approach—clear notices, real remedies for owners, and that basic duty to act like a sensible trader—would sort out the majority of headaches Zambian courts see today. It wouldn’t turn us into London, but it would finally give repair shops, warehouses, and customers a set of rules everyone can actually live with.

For example, high-value goods must be sold in a manner that maximizes returns and ensures fairness to the owner, while routine goods may follow simpler procedures. Formalizing this principle in Zambia would prevent arbitrary or unfair disposal and provide courts with clear standards for evaluating custodial conduct.

4.4 Key Lessons for Zambia from the United Kingdom

4.4.1. Codify Notice and Disposal Procedures in Detail

The UK experience drives home one simple truth: when the law spells out exactly what a notice must say and how it must be sent, almost all the usual arguments simply never happen. Right now Zambia's Cap. 410 mentions notice, but it never says what has to be in it or how it should reach the owner.[41]

Zambia can fix this by borrowing the British habit of writing everything down. Make it compulsory for every notice to list the custodian's name and address, describe the goods properly (make, model, serial number, condition), state exactly how much is owed and why, and give a clear final date for collection. Then say plainly that the notice can go by hand, registered post, or email whatever works, as long as there is proof it was sent and, if possible, received. Add fixed response periods say thirty days for ordinary items, sixty for anything expensive and suddenly custodians know exactly what box to tick, owners can't claim they were kept in the dark, and magistrates stop wasting time on basic procedural fights. It's not complicated; it just needs to be written into the Act.

4.4.2. Introduce Statutory Remedies for Owners

At the moment, if a Zambian custodian sells goods too quickly or suspiciously cheaply, the owner's options are thin on the ground. The UK changed that years ago by giving owners a clear legal route to complain. Zambia should do the same.

Give owners the statutory right to rush to court and ask for an order stopping the sale, or to claim damages if the goods have already gone and the process was clearly unfair. It doesn't mean every disappointed owner gets their day in court for broken kettle magistrates can throw out trivial claims quickly but when something valuable disappears because the rules weren't followed, the owner needs a proper remedy written into the law. That single addition makes custodians think twice, follow the notice rules properly, and gives ordinary people real confidence that the system isn't stacked against them.

41 Ibid

4.4.3. Integrate Commercial Reasonableness as a Statutory Principle

One of the smartest things the United Kingdom did was to stop pretending every sale of uncollected goods has to follow the exact same rigid script. Instead, they built the whole disposal process around a single, powerful idea repeated again and again in their statutes and judgments: the custodian must act in a "commercially reasonable" manner. That short phrase has turned out to be pure gold. It gives flexibility when flexibility is needed, yet it draws a hard line against shady deals and fire-sales that rob owners blind.

In practice, it simply means the custodian has to behave the way any sensible, honest business person would if the goods actually belonged to them. If the item is a bag of perishable maize meal or a cheap plastic chair, a quick sale to the first buyer—or even destruction if it is spoiling—is perfectly reasonable. But if it is a K350,000 generators, a high-end welding machine, or a container of imported spare parts, "commercial reasonableness" suddenly demands more: get at least one independent valuation, advertise properly (whether in the newspaper, on Facebook Marketplace, or through a reputable auctioneer), wait for genuine bids, and accept the best offer that comes in within a sensible time. It is not about achieving the highest possible price in the universe; it is about showing you made a genuine, transparent effort to treat the owner's property with respect.

Zambia should copy this idea word-for-word and plant it right at the heart of a new section in the Act. Make it explicit that every custodian—whether a village panel-beater or a big storage company has a statutory duty to dispose of goods in a commercially reasonable manner, taking into account the nature, value, and condition of the items. Spell out a few everyday examples in the section or in regulations so nobody can claim confusion: perishable goods can go fast, low-value items can be sold privately, but anything above, say, K50,000 automatically triggers the need for written quotes, public advertising, or an auction. Give magistrates a checklist of factors to considered the custodian gets a valuation? Was the sale advertised openly? Was the timing rushed without cause? so they can decide in minutes whether the duty was honored.

The beauty of this principle is that it protects everyone at once. Owners no longer watch their K800,000 vehicle disappear for K40,000 to the custodian's cousin. Honest repair shops and warehouses have nothing to fear; they already try to do the right thing and now have clear legal cover when they do. Dishonest ones lose the dark corners where they used to hide. Courts stop wasting days trying to guess what “fair” means because the statute hands them an objective, business-like standard that any Zambian trader instinctively understands.

Kenya has started moving in the same direction through case law, but the UK proves that writing the duty straight into the Act is far more effective. Once “commercial reasonableness” becomes a statutory pillar, magistrates will quote it the way they now quote “beyond reasonable doubt,” and most custodians will fall into line without ever needing to be told twice. It is a small handful of words that would do more to clean up the disposal of uncollected goods than pages of complicated regulations ever could.

4.4.4. Include Procedural Safeguards for Timelines, Methods of Notice, and Handling of Proceeds

The UK ties everything together with tight rules on timing, delivery methods, and especially what happens to the money after sale. Zambia should copy that package deal.

Set firm deadlines owners must meet, recognize email and WhatsApp as valid (with proof), and most importantly say exactly where the sale money goes: first to the custodian’s genuine costs (storage, advertising, auction fees), then the original debt, and anything left over straight back to the owner. That last part is crucial. Right now some Zambian custodians pocket the lot; some owners think they should get everything. A short, clear section saying “this is the order” would kill most of those fights overnight and bring instant transparency.

Taking these four ideas from the UK wouldn’t turn Zambia into Britain, but it would give the country a modern, predictable law that small garages, big warehouses, and ordinary customers could all live with.

4.5 Recommendations and Implementation Strategies for Zambia

The Kenyan and British systems both show what works, but any new rules have to make sense on the ground in Lusaka, Ndola, or Kitwe, not just look good on paper. Shops and workshops can’t be drowning in paperwork, and owners still need real protection. Here’s how Zambia can actually make the changes stick.

Start with judicial oversight, but only for items worth more than a sensible limit—say K50,000 or whatever Parliament decides. A mechanic with a broken bicycle or a tailor holding a couple of dresses shouldn’t have to go near a court. But when we’re talking expensive machinery, vehicles, or bulk stock, let the custodian file a short, cheap application to a magistrate who can sign off (or raise questions) in a day or two. That protects everyone without choking small businesses.

Next, write the notice rules properly once and for all. Give custodians a simple template name, goods, amount, deadline and let them send it any way that leaves proof: paper, email, SMS, WhatsApp Business. Most shops already use phones; recognizing that in law costs nothing and brings the Act into the 21st century.

Make the money rules crystal clear: custodian’s real costs first, then the original bill, surplus back to the owner. If the sale doesn’t cover costs, the custodian can still sue for the balance. One short section like that ends most arguments before they start.

Tell custodians they must act “commercially reasonably” and mean it. A written valuation or two quotes for anything valuable, a proper auction or online listing instead of a quick backyard deal that’s all most honest businesses already try to do. Writing it into law just gives them cover and stops the cowboys.

Finally, help everyone keep proper records without turning it into a nightmare. A simple register book or even a phone app where notices and sales are logged would satisfy the law and give magistrates something solid to look at if things ever go wrong.

Country like Zambia ends up with a law that small repair shops can follow without hiring lawyers, big storage companies can rely on, and ordinary owners can trust. It’s not about copying Kenya or the UK word for word—it’s about taking what actually works and fitting it to our own streets and markets.

4.6 CONCLUSION

This chapter has looked hard at what Kenya and the United Kingdom actually do when goods are left behind, and the message is clear: detail matters. Clear notice rules, proper handling of sale money, a dose of commercial common sense, and a court safety net for valuable items these are not luxuries, they are the things that stop courtrooms filling up with preventable fights.

Kenya keeps things fairly flexible and trusts its judges; the UK writes almost every step into the statute. Zambia doesn't have to choose one extreme or the other. We can take the best from both Kenya's practical lien and court oversight for big items, Britain's precise notices and money rules and build something that fits our own businesses and courts. The result would be a law that let's repair shops and warehouses get paid and clear their space without constantly looking over their shoulder, while giving ordinary Zambians confidence that their property won't just vanish because someone felt like selling it. That balance is perfectly achievable, and the examples are already there to follow.

CHAPTER FIVE

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

5.0 INTRODUCTION

This chapter aim to bring to the attention the, effectiveness and implementation of the Uncollected Goods Act, it employees on the area in which Zambia can strengthen and foster the Act into a more practical sense in implementing these laws. The chapter will further delve to draw a comparative lesson from the best practices, alternatively the research will draw lesson from United Kingdom and Kenya.

Harmonizing the nature of these countries on their effectiveness on their applicable laws, in order to adapt to the changing of the technological environment. As established this chapter will look at chapter one to chapter four

5.1 SUMMARY OF CHAPTER ONE

The Chapter laid down the procedure on how the uncollected of goods Act apply in the real life leaving room for the substantive law to be ambituses and without any clear legal reform, leaving only applicable laws such as of Kenya and Uk to apply lacking the fundamental laws domestically enacted in our jurisdiction.

The core problem was obvious from the start: we need rules that actually spell out the steps everyone has to follow. That’s why the study set three main goals: understand Zambia’s law properly, see what Kenya and the UK do differently, and come up with sensible changes that protect both sides.

This research will focus on a usual legal research methods reading statutes, court judgments, and comparing systems so the whole thing stays firmly based on real law rather than just opinions.

5.2 SUMMARY OF CHAPTER TWO

Chapter Two focused on Zambia’s Disposal of Uncollected Goods Act itself. While the law sets out the basics, it leaves out many of the details that really matter. For example, it doesn't clearly explain how notices should be delivered, how much time owners get to collect their goods, how items should be valued, or what happens to any leftover money after a This lack of clarity often causes people to end up in court because everyone has to guess the rules. On top of that, the law feels outdated. It doesn't mention email notices, digital records, or online sales, even though most businesses now use these methods. The chapter concludes that Zambia needs clear, step-by-step rules, stronger protection for owners, and laws that reflect how business works today. sale.

5.3 SUMMARY OF CHAPTER THREE

This chapter looked beyond Zambia to see how Kenya and the UK handle uncollected goods, and both offer some useful lessons.

In Kenya, the Sale of Goods Act and the Hire Purchase Act, along with a number of court decisions, fill in the gaps left by the statutes. Custodians are allowed a proper lien, but owners still have a fair chance to reclaim their items. For high-value goods, courts usually get involved to make sure everything is done openly and fairly. Cases like *KCB Ltd v Nyeri Farmers* and *National Bank v Kenya Pipeline* show how judges balance the rights of custodians and owners. The system isn't perfect digital notices and valuation rules could be clearer but it generally works well in practice.

The UK system is more detailed. Their *Uncollected Goods Act* and *Torts (Interference with Goods) Act* set out notice periods, acceptable ways to contact owners (including email), and strict rules for handling sale proceeds. Custodians must act in a "commercially reasonable" way, aiming for a fair price and returning any leftover money to the owner. Cases like *Re Millar* and *Burton v Thompson* show that this approach reduces disputes and creates predictable outcomes, though small businesses may find the paperwork heavy.

In short, Kenya offers flexibility with court oversight, while the UK gives certainty through clear rules. Both provide useful lessons Zambia could use to improve its own law.

5.4 SUMMARY OF CHAPTER FOUR

Chapter Four translated the comparisons from Kenya and the UK into practical lessons for Zambia. The key takeaway is that it’s possible to protect owners while still allowing custodians to be paid and clear out space but only if the rules are clear and fair.

Kenya demonstrates the benefits of treating ordinary and High-value goods must be handled differently. When items are expensive, courts usually step in to make sure everything is transparent and fair. Proper notice rules must be followed, and the sale must be done honestly and in good faith. The UK takes this even further by requiring detailed documentation, clear notice formats, strict timelines, electronic delivery options, and a clear order for how sale proceeds must be used. These rules help reduce confusion and build trust between owners and custodians.

Based on these lessons, Zambia could strengthen its own law by introducing court supervision for valuable items, allowing electronic notices, creating a clear order for using sale proceeds, making “commercial reasonableness” a legal duty, and updating the procedure to match modern business practices. These improvements would reduce disputes, promote fairness, and align Zambia with international standards without placing heavy burdens on small businesses.

5.5 OVERALL CONCLUSION OF THE DISSERTATION

A law that people cannot understand is almost as good as having no law at all. If a mechanic in Kabwe or a dry-cleaner in Chingola still depends on outdated rules, and customers believe they can leave items uncollected forever, then disputes will continue to flood the courts. Updating the Act is only one part of the solution. The other part is making sure that everyone actually understands the new rules and knows how to follow them.

After the amendments are passed, the government should start a simple nationwide awareness campaign that does not require a big budget. Half-day workshops in every province—run by ministry officials or business associations—can train repair shops, panel-beaters, tailors, furniture makers, and storage operators. They should receive easy-to-read pamphlets, ready-to-use notice templates, and clear explanations of timelines and electronic notice rules. These short sessions would allow small businesses to ask questions and fully understand their responsibilities.

At the same time, radio messages in local languages, WhatsApp videos, and posters in markets and bus stations can remind the public that they have a set number of days—such as thirty or sixty—to collect their goods before a lawful sale can take place. Magistrates and clerks should also receive focused training, perhaps in Lusaka and Ndola, so that they can handle applications quickly and recognise valid electronic notices such as emails or WhatsApp messages.

A small investment in education ensures the new law works immediately instead of sitting unused. When custodians know their duties and owners understand their rights and deadlines, most conflicts will be resolved before reaching court. This effort saves time, money, and reduces unnecessary legal battles.

5.6 RECOMMENDATIONS AND FUTURE DIRECTIONS

After comparing Zambia's Act with the laws in Kenya and the UK, it is clear that the Disposal of Uncollected Goods Act needs to be modernised. These changes are practical and realistic. The current Act looks workable on paper, but in practice it is too unclear and outdated to serve people fairly today. Many court cases arise simply because the law does not give clear guidance, while modern business practices continue to evolve.

Zambia does not need to replace the entire Act. What is needed are targeted, sensible improvements that borrow useful ideas from Kenya and the UK but remain suitable for small workshops in Matero, large warehouses in Lusaka, and customers across the country.

These recommendations do not create new courts or heavy paperwork. Instead, they repair the main gaps that cause disputes. Together, they give custodians clear procedures, protect owners through proper notice, and help magistrates apply consistent rules. Most importantly, these changes reflect modern commerce phones, email, online sales, and digital communication. These ideas are not experimental; Kenya and the UK are already using them successfully.

With careful drafting and political commitment, Zambia could update the law within one parliamentary session and produce a modern, fair, and practical framework for handling uncollected goods.

5.6.1 Judicial Oversight and Court Involvement

For valuable items, custodians should be required to get quick court approval before selling. This does not need to be a long or complicated process. A short application before a magistrate is enough. This safeguard prevents abuse, reassures owners that their property is protected, and protects honest custodians from false accusations. Judicial oversight is a critical safeguard in any legal framework that authorises the seizure and disposal of property. When dealing with valuable items—whether vehicles, machinery, electronics, or high-worth commercial goods the risk of abuse, undervaluation, or irregular disposal significantly increases. For this reason, it is essential that custodians be required to seek swift judicial approval before proceeding with any sale. This requirement does not imply burdensome litigation or protracted procedures. Instead, it reflects a controlled, efficient, and transparent method of ensuring that property rights are not violated under the guise of administrative necessity.

A streamlined application before a magistrate can serve as the necessary checkpoint. Such an application might include a valuation report, the reasons necessitating the sale, evidence that the owner was notified or could not be located despite reasonable efforts, and confirmation that proper storage or maintenance cannot be sustained without disproportionate cost. This narrow but vital review ensures that the disposal of valuable assets is not conducted arbitrarily or prematurely. Judicial confirmation also serves as an assurance that the custodian has acted within the scope of their authority and has complied with legal standards governing the care, preservation, and sale of property.

Importantly, this approach aligns with constitutional principles of due process and protection of property rights. Zambia's legal system, similar to many common-law jurisdictions, emphasises that deprivation of property must occur in accordance with the law and under the supervision of impartial authorities. Introducing a requirement of judicial approval before the sale of high-value goods therefore supports the rule of law by preventing unilateral administrative decisions that may be influenced by personal interests, conflicts of interest, or corruption. It ensures that custodians cannot dispose of property without accountability, and that the state maintains a record of how seized goods are processed.

Furthermore, judicial oversight enhances the credibility of the enforcement system. Property owners—whether individuals, businesses, or institutions—are more likely to trust a process that includes independent review. Many disputes concerning seized property arise because owners feel excluded from decisions that directly affect their assets. Knowing that a neutral magistrate has reviewed the circumstances of the sale and confirmed its necessity reduces suspicion and increases cooperation. It also provides a clear remedy pathway should any irregularities occur, since court records create an evidentiary trail that can be referenced if the sale is later challenged.

Judicial involvement also protects honest custodians. Without formal oversight, custodians may be accused of acting in bad faith, undervaluing property, colluding with buyers, or profiting from the sale of goods. These accusations—whether true or not—can damage reputations and undermine public confidence in enforcement institutions. A quick judicial check ensures that custodians who act properly have documentary proof that their decisions were vetted and authorized, shielding them from unfounded complaints or allegations of impropriety. In this sense, judicial oversight benefits not only owners but also the administrators tasked with implementing the law.

Comparative practices strongly illustrate the value of this approach. In countries such as South Africa, the United Kingdom, and parts of the European Union, judicial review is a common and often mandatory safeguard before the disposal of seized or forfeited property. These systems recognize that unchecked administrative power over private goods leads to legal disputes, corruption vulnerabilities, and diminished public trust. Zambia's adoption of a similar model would harmonize its enforcement procedures with international norms and reinforce the legitimacy of state actions involving private property.

In practical terms, integrating judicial oversight does not require extensive resources or complex procedural reforms. Magistrates' courts already have the infrastructure to handle urgent applications, including ex parte matters involving time-sensitive property issues. Technology—such as electronic filing, virtual hearings, and expedited scheduling can further streamline the process, allowing applications to be reviewed and approved within a short timeframe. This ensures that custodians are not delayed unnecessarily, and valuable goods do not deteriorate while awaiting authorization.

Moreover, judicial oversight contributes to the development of a coherent body of case law. When courts routinely review applications related to seized property, patterns emerge regarding what constitutes reasonable cause for sale, adequate notice to owners, and proper valuation standards. This jurisprudence becomes an important interpretative tool for future cases, guiding custodians, lawyers, and judges alike. Over time, it reduces ambiguity and fosters uniformity in enforcement practices across different regions and administrative, introducing judicial review also addresses a longstanding problem in Zambia's enforcement environment: the lack of transparent checks on discretionary power. Many custodians operate with broad authority, but without consistent guidelines or supervisory mechanisms. This creates uneven application of the law and exposes the system to allegations of selective enforcement. Judicial involvement narrows this discretion by requiring custodians to justify their decisions to an impartial authority. In doing so, it promotes accountability, fairness, and adherence to legal standards, strengthening the legitimacy of the entire enforcement regime.

Finally, judicial oversight aligns with broader policy goals such as anti-corruption, protection of property rights, and strengthening of the justice sector. Each court-approved sale becomes a documented transaction, subject to audit, review, and public scrutiny when necessary. This reduces opportunities for irregularities, limits the potential for insider sales or undervaluation schemes, and reassures the public that state institutions operate transparently. In a developing economy where investor confidence and public trust are essential, embedding judicial oversight is not merely a procedural step—it is a strategic enhancement of governance.

5.6.2 Codified Notice Procedures

Many disputes arise because someone says, "I wasn't notified," or "the notice was not proper." Although the Act mentions notice, it does not explain what a proper notice must contain, how it should be delivered, or how much time the owner should be given. This lack of clarity creates constant courtroom arguments.

The fix is simple: create a detailed section explaining exactly what a valid notice must include. A proper notice should have the custodian's full name and address, a clear description of the goods (including make, model, serial number, and visible damage), the amount owed with a basic breakdown, and a specific deadline by which the owner must collect the goods. Each notice must be dated, signed, and kept on file.

Delivery should still allow traditional methods hand delivery with a signature or registered post but must also recognise modern communication. Email with a read receipt, SMS to the last known number, or WhatsApp messages with confirmation ticks should all be legally valid, as long as proof exists that the message was sent and received.

If the owner cannot be contacted, a single newspaper advertisement and a posting on the custodian's website should suffice.

For timing, set two clear periods: thirty days for ordinary items and sixty days for high-value goods say above K25,000, adjustable for inflation over time. These windows give owners a fair chance to act while preventing goods from piling up in workshops or warehouses indefinitely.

Having these rules clearly written will eliminate most of the disputes over faulty notices. Custodians will know exactly what to send, owners cannot claim they were left in the dark, and magistrates can verify compliance quickly without lengthy hearings. Clear notice procedures save everyone time, money, and frustration.

5.6.3. Systematic Application of Sale Proceeds

The rules for using sale proceeds should be straightforward. First, the custodian's legitimate costs such as storage, transport, and advertising are covered. Any remaining money is returned to the owner. If the costs exceed the sale price, the custodian can claim the difference. This simple, transparent order of payment mirrors practices in Kenya and the UK, where it has proven effective. Strengthening this rule through statutory clarification would reduce disputes arising from unclear or inconsistent accounting practices. In many instances, disagreements occur because custodians either fail to prioritize legitimate expenses correctly or apply proceeds in a manner that appears arbitrary to the property owner. A clearly defined order of payment ensures that all parties understand how the funds will be allocated, thereby minimizing conflict and promoting trust in the disposal process.

In addition, establishing a uniform method for applying sale proceeds promotes accountability. Custodians would be required to maintain proper financial records detailing the expenses incurred and how the proceeds were distributed. This type of mandatory documentation is especially important for high-value goods, where small discrepancies in costs or valuations can significantly affect what is ultimately returned to the owner. Transparent accounting also provides courts with a reliable basis for resolving any challenges.

Comparatively, jurisdictions such as Kenya and the UK have demonstrated that simple and predictable rules for allocating sale proceeds contribute to efficiency in enforcement and property management. By adopting a similarly structured framework, Zambia can reduce administrative burdens while encouraging best practices among custodians. Such alignment with international standards also enhances investor confidence, as it signals that the country's legal system prioritizes fairness and clarity in the handling of personal property.

Ultimately, a systematic and transparent application of sale proceeds ensures that custodians are compensated for genuine expenses without unduly prejudicing owners. Clear statutory guidance promotes fairness, prevents misuse of funds, and supports the broader objective of maintaining integrity in the management and disposal of seized good

5.6.4. Embedding Commercial Reasonableness as a Legal Principle

The law should require custodians to act fairly and responsibly. For high-value items, they should obtain proper valuations and use trusted methods to sell the goods. For everyday items, a quicker process is acceptable. Including this principle in the law provides courts with a clear standard and prevents anyone from mishandling other people's property.

Moreover, embedding commercial reasonableness as a statutory requirement would promote consistency across different categories of custodians and enforcement officers. At present, the absence of an explicit standard means that decisions about valuation, marketing, and disposal vary widely, creating uncertainty for owners and increasing the risk of disputes. By codifying what is expected in the handling and sale of seized property, the law would ensure that similar cases are treated alike, thereby strengthening predictability in enforcement processes.

In addition, a legislated standard would protect both custodians and owners by clarifying the limits of acceptable conduct. Custodians who follow commercially reasonable procedures would have a clear defense against allegations of negligence or bad faith, while owners would gain confidence that their property will not be undervalued, secretly disposed of, or sold in conditions that diminish its worth. This balance is essential in fostering integrity within the system.

Further, commercial reasonableness aligns Zambia's legal approach with modern trends in comparative jurisdictions, many of which recognize the importance of fair market practices in the disposal of seized or distressed goods. Incorporating this principle not only enhances accountability but also supports broader economic goals by encouraging transparency, reducing corruption risks, and promoting investor trust in enforcement mechanisms.

5.6.5. Integration of Modern Business Practices

Even the clearest law is useless if people don't know about it. A mechanic in Chilenje or a warehouse manager in Ndola will continue using old practices unless someone explains exactly what has changed and why it matters. Ordinary customers also need to understand that leaving goods uncollected for years has consequences. Without proper awareness, the new rules will just sit in a statute book while the same old disputes keep going to court.

The solution is simple and cost-effective. Once the amendments are passed, the Ministry of Justice, together with the Ministry of Commerce, should run short, practical workshops across all provinces. Half-day sessions could bring together repair shops, tailors, storage companies, and small businesses to explain the new notice templates, timelines, and what "commercial reasonableness" means in everyday language. People could ask questions, get printed guides, and see real examples of how to follow the new rules.

At the same time, a public awareness campaign could run through radio messages in aspiration for a better reform Zambia needs a strong mandate to add the recognized laws in implementation of beliefs, for uncollected of goods Act.

On the contrary the sum total of laws governing Zambia was merely adopted by common law practice and, the two countries United Kingdom and Kenya these countries have the best practices that enhance the opportunity for recommendation in order to improve the legal fraternity.

5.6.7 Monitoring, Review, and Continuous Improvement

No law stays perfect forever. The world changes quickly new phones, new apps, and new ways of buying and selling appear faster than expected. A law that feels modern in 2026 could feel old-fashioned by 2035 if no one checks whether it still fits everyday life. For this reason, the amended Act should include a simple requirement: the entire law must be reviewed at least once every seven years.

The review process does not need to be complicated. The Minister in charge would appoint a small committee of about eight or nine people. This group would include a few ministry officials who know the Act, two or three business owners or association representatives who deal with uncollected goods daily, a consumer advocate, and a magistrate or judge who has handled these cases in court. They would not need a large office or a big budget; a few meetings, visits to repair shops and warehouses in places like Lusaka, Kitwe, and Livingstone, a look at court statistics, and short discussions with custodians and owners would be enough.

Their job would be simple: check what is working, what has become difficult, and what new problems have appeared. They would look at whether the notice rules still make sense now that many people use WhatsApp and email, whether the threshold for “high-value goods” has been affected by inflation, whether online auction platforms should be formally recognised, and whether leftover money from sales is actually reaching owners. After six to eight months, the committee would give Parliament a short report with practical suggestions sometimes just a one-page amendment, sometimes a small update for new technology, and sometimes confirmation that the law is still working well.

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L400B – DIRECTED RESEARCH (OBLIGATORY ESSAY)

RESEARCH CLEARANCE FORM

NAME: PATRICIA CHANDA CHISHIMBA STUDENT NUMBER: 4B22114248

SUPERVISOR: MRS KAPUTO TOPIC: A COMPARATIVE ANALYSIS OF THE DISPOSAL OF UNCOLLECTED GOODS ACT OF ZAMBIA WITH KENYA VIS-A-VIS MODERNISING THE LAW

Stage	Comments	Supervisor's Signature & Date	Student's Signature & Date
Research Proposal	Revise statement of the problem and objectives	4/09/25	20/11/25
Chapter 1 – Introduction	approved	22/09/25	20/11/25
Chapter 2 –	Restructure and Rearrange.	10/11/25	20/11/25
Chapter 3 –	Restructure and rearrange	10/11/25	20/11/25
Chapter 4 –	Restructure and rearrange	10/11/25	20/11/25
Chapter 5 – Conclusions & Recommendations	okay	13/11/25	20/11/25
Table of Contents, Bibliography and Appendices	okay.	13/11/25	20/11/25
First Draft	requires few changes.	13/11/25	20/11/25

Second Draft	N/A	N/A	20/11/25
Final Draft	Page numbers exceeded but APPROVED	20/11/25	20/11/25

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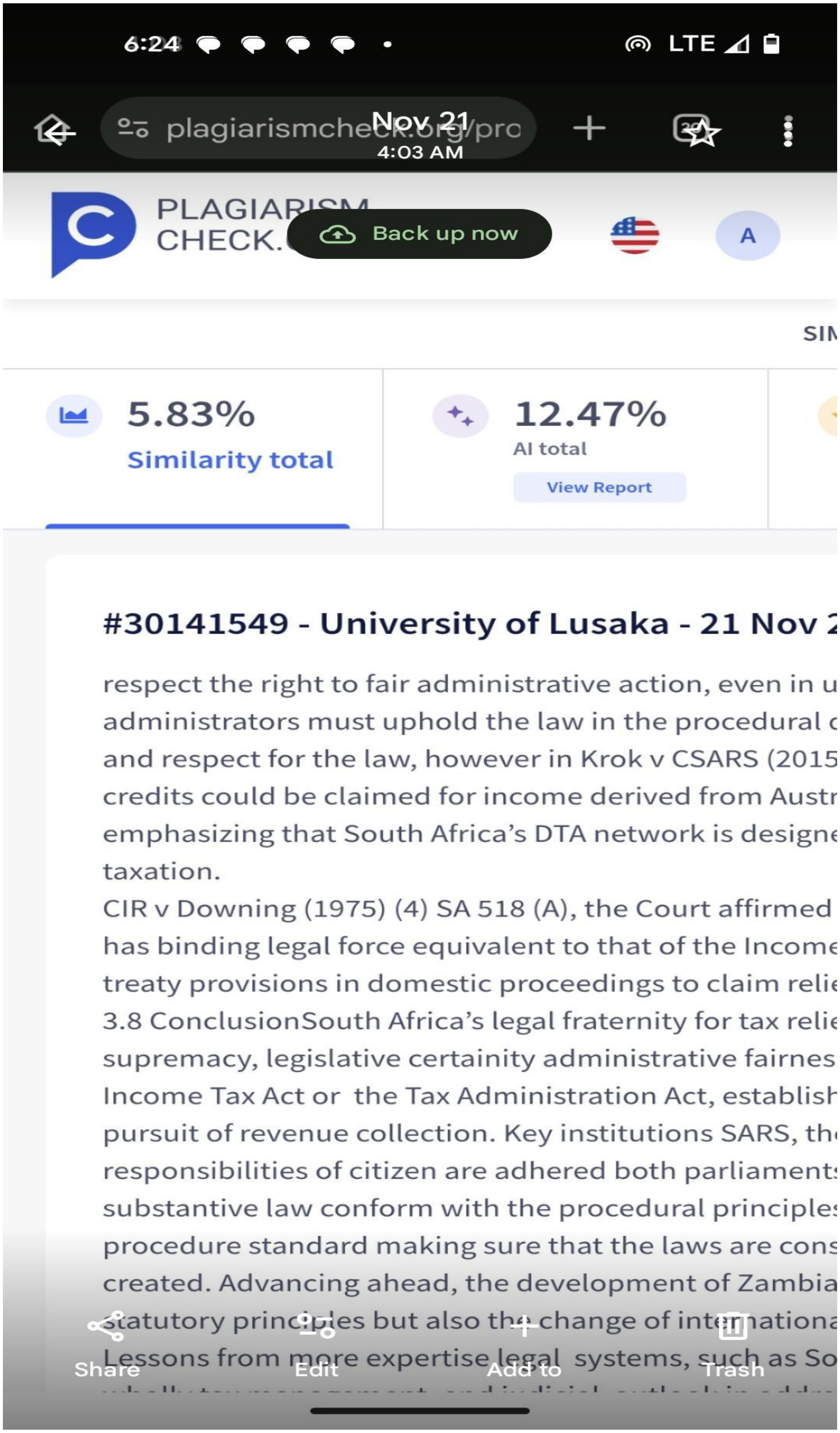

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