

The Seizure of Criminal Property Act, 2009

being

Chapter S-46.002* of the *Statutes of Saskatchewan, 2009* (effective July 1, 2009) as amended by the *Statutes of Saskatchewan, 2013, c.34; 2014, c.E-13.1 and c.6, 2016, c.C-45.3; and 2018, c.C-2.111 and c.42.*

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER S-46.002

An Act respecting the Forfeiture of Property Acquired by or Used in Criminal Activities and making a related amendment to *The Traffic Safety Act*

PART I Preliminary Matters

Short title

1 This Act may be cited as *The Seizure of Criminal Property Act, 2009*.

Interpretation

2 In this Act:

- (a) **“asset manager”** means the asset manager appointed pursuant to section 27 and includes any deputy asset manager;
- (a.1) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (b) **“court”** means the Court of Queen’s Bench;
- (c) **“criminal organization”** means a criminal organization as defined in the *Criminal Code*;
- (d) **“criminal organization offence”** means a criminal organization offence as defined in the *Criminal Code*;
- (e) **“Crown”** means, except in clause 9(1)(f), the Crown in right of Saskatchewan;
- (e.1) **“defendant”** means, in the case of an application pursuant to this Act brought by statement of claim, the person named as defendant in the statement of claim and includes, for the purposes of section 6, a possible defendant;
- (f) **“director”** means the director appointed pursuant to section 22 and includes any deputy director;
- (g) **“forfeiture order”** means an order made pursuant to section 7;
- (h) **“fund”** means the criminal property forfeiture fund established pursuant to section 30;
- (i) **“instrument of unlawful activity”** means property that:
 - (i) has been used to engage in unlawful activity that, in turn, resulted in or was likely to result in or was intended to result in the acquisition or production of property or in bodily harm to a person; or
 - (ii) is likely to be used to engage in unlawful activity that, in turn, would be likely to or is intended to result in the acquisition or production of other property or in bodily harm to a person;

- (j) **“land titles registry”** means the land titles registry as defined in *The Land Titles Act, 2000*;
- (k) **“minister”**, except where otherwise provided in section 34, means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (k.1) **“ministry”** means the ministry over which the minister presides;
- (l) **“personal property”** means personal property as defined in *The Personal Property Security Act, 1993*;
- (m) **“personal property registry”** means the personal property registry continued pursuant to section 42 of *The Personal Property Security Act, 1993*;
- (n) **“prescribed”** means prescribed in the regulations;
- (o) **“prior registered interest”** means:
- (i) with respect to real property, an interest that was registered against the property in accordance with *The Land Titles Act, 2000* or any former *Land Titles Act* before an interest based on an application for forfeiture was registered pursuant to section 4; and
 - (ii) with respect to personal property, a security interest that was registered against the property in accordance with *The Personal Property Security Act, 1993* or any former *Personal Property Security Act* before notice of an application for forfeiture was registered pursuant to section 5 or notice of commencement of administrative forfeiture proceedings was registered pursuant to subsection 10.2(2);
- (p) **“proceeds of unlawful activity”** means:
- (i) property acquired directly or indirectly, in whole or in part, as a result of unlawful activity, whether the property was acquired before or after the coming into force of this Act; and
 - (ii) an increase in the value of property, or a decrease in a debt obligation secured against property, if the increase or decrease resulted directly or indirectly from unlawful activity;
- (q) **“property”** means real or personal property, and includes any interest in real or personal property;
- (r) **“protection order”** means an order made pursuant to section 8;
- (s) **“Registrar of Titles”** means the Registrar of Titles appointed pursuant to section 6 of *The Land Titles Act, 2000*;
- (t) **“respondent”** means, in the case of an application pursuant to this Act brought by notice of motion, the person named as respondent in the notice of motion and includes, for the purposes of section 6, a possible respondent;

- (u) “**unlawful activity**” means an act or omission that is an offence pursuant to:
- (i) an Act, an Act of any province or territory of Canada or an Act of the Parliament of Canada; or
 - (ii) an Act of a jurisdiction outside Canada, if a similar act or omission would be an offence pursuant to an Act or an Act of the Parliament of Canada if it were committed in Saskatchewan;
- (v) “**victims’ fund**” means the victims’ fund continued pursuant to section 6 of *The Victims of Crime Act, 1995*.

2009, c.S-46.002, s.2; 2013, c.34, s.3; 2014, c.6, s.3.

PART II Forfeiture of Property

Application

3(1) The director may apply to the court for a forfeiture order if the director is satisfied that property is proceeds of unlawful activity or an instrument of unlawful activity.

(1.1) An application pursuant to this section may be made by way of notice of motion or statement of claim at the discretion of the director.

(2) The director may apply for a forfeiture order:

- (a) with respect to property located anywhere in Saskatchewan; and
- (b) at any judicial centre in Saskatchewan, regardless of where the property that is the subject of the application is located.

(3) An application for a forfeiture order must:

- (a) describe the property for which the forfeiture order is sought with sufficient detail to make it readily identifiable; and
- (b) name the following as respondents or defendants, as the case may be:
 - (i) any person who is in possession of the property;
 - (ii) any person with a prior registered interest in the property;
 - (iii) any other person the director has reason to believe has an interest in the property.

(4) The director may claim costs and expenses incurred in bringing an application for a forfeiture order, including any costs and expenses incurred in any proceedings leading to the forfeiture, in accordance with the regulations.

2009, c.S-46.002, s.3; 2013, c.34, s.4.

Notice of application re real property

4(1) After filing an application for a forfeiture order respecting real property, the director shall apply to the Registrar of Titles to register an interest based on the application against the affected title or interest in the land titles registry.

(2) An application pursuant to subsection (1) must be accompanied by a copy of the application for a forfeiture order containing the legal description of the land affected by the order.

(3) After an interest based on an application for a forfeiture order is registered, the director:

(a) may, at any time, apply to the Registrar of Titles to discharge the registration of the interest; and

(b) shall apply to the Registrar of Titles to discharge the registration of the interest if the application is dismissed or discontinued.

(4) The registration of an interest may be discharged pursuant to subsection (3) with respect to:

(a) all of the titles or interests described in the application for a forfeiture order; or

(b) any portion of the titles or interests described in the application for a forfeiture order.

(5) Without limiting the generality of section 39, no action lies or shall be commenced against the director for any loss or damage suffered by any person by reason of:

(a) the registration of an interest pursuant to this section;

(b) the amendment of an interest pursuant to this section;

(c) the failure of the director:

(i) to register an interest pursuant to this section; or

(ii) to discharge an interest pursuant to this section.

(6) An application for a forfeiture order respecting real property filed by the director is valid notwithstanding any failure to comply with this section.

2009, c.S-46.002, s.4.

Notice of application re personal property

5(1) After filing an application for a forfeiture order respecting personal property, the director shall register a notice of the application against the property in the personal property registry.

(2) An application pursuant to subsection (1) must be made by submitting a financing statement for registration in the personal property registry in accordance with *The Personal Property Security Act, 1993*.

- (3) Part IV of *The Personal Property Security Act, 1993* applies, with any necessary modification, to the registration of a financing statement pursuant to this section.
- (4) The financing statement mentioned in subsection (2) must:
- (a) name as the debtor the person who owns or is in possession of the personal property that is the subject of the application;
 - (b) name the director as the secured party; and
 - (c) specify as the collateral the personal property that is the subject of the application.
- (5) If an application for a forfeiture order is dismissed or discontinued, the notice registered pursuant to subsection (1) must be discharged by the director as soon as is practicable.
- (6) An application for a forfeiture order respecting personal property filed by the director is valid notwithstanding any failure to comply with this section.

2009, c.S-46.002, s.5.

Interim orders

6(1) On an application without notice application by the director, the court may make one or more of the following interim orders respecting property that is, or may become, the subject of an application for a forfeiture order made pursuant to this Part:

- (a) an order authorizing the director to investigate and inventory the property of the person named in the application without notice application as the respondent or defendant;
- (b) an order authorizing the director to do all or any of the following:
 - (i) enter and search any place or premises named in the order;
 - (ii) stop and search any vehicle described in the order;
 - (iii) seize and remove from any place, premises or vehicle searched anything that may be evidence of property that is proceeds of unlawful activity or an instrument of unlawful activity;
- (c) an order restraining the disposition of the property;
- (d) an order for the possession, delivery or safekeeping of the property;
- (e) an order for the sale or other disposition of the property, if:
 - (i) the property is perishable or of a rapidly depreciating nature;
 - (ii) the sale or disposition of the property would preserve the value of the property; or
 - (iii) the cost of managing or preserving the property would exceed its realizable value;

- (f) an order creating a lien in favour of the Crown for an amount fixed by the court on the property, or on other property specified in the order, to secure the performance of an obligation imposed by an order made pursuant to this subsection;
 - (g) an order appointing a receiver or a receiver and manager for the property;
 - (h) any other order respecting the preservation, management or disposition of the property that the court considers appropriate.
- (2) When property has been sold pursuant to clause (1)(e), the order ceases to apply to the property and applies instead to the proceeds, if any, realized on the sale or disposition of the property.
- (3) With an order made pursuant to clause (1)(b), the director may:
- (a) enter at any time and search any place or premises named in the order;
 - (b) stop and search any vehicle described in the order;
 - (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the director finds in the place, premises or vehicle;
 - (d) require the production of and examine any records or property that the director believes, on reasonable grounds, may contain information related to property that is proceeds of unlawful activity or an instrument of unlawful activity;
 - (e) remove, for the purpose of making copies, any records examined pursuant to this section; and
 - (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of property that is proceeds of unlawful activity or an instrument of unlawful activity.
- (4) Unless it clearly would not be in the interests of justice, the court shall make an order pursuant to subsection (1) if it is satisfied that there are reasonable grounds to believe that the property is proceeds of unlawful activity or an instrument of unlawful activity.
- (5) An order made pursuant to subsection (1) may be made for a period not exceeding 60 days.
- (6) An application to extend the order may be made only:
- (a) on notice to every party to the application, unless the court is satisfied that the order ought to be extended without notice to a party because:
 - (i) that party has been evading service; or
 - (ii) there are other exceptional circumstances; and
 - (b) for a further period to be determined by the court or until there is a further order of the court.

- (7) If an order is made pursuant to clause (1)(a) or (b), the director shall, within 30 days, file a report detailing the results of the investigation and inventory or search, as the case may be, with the court.
- (8) On reviewing the report filed pursuant to subsection (7), the court may, on an application without notice application by the director, make a further order pursuant to clauses (1)(c) to (h).
- (9) If an order is made pursuant to clause (1)(f) creating a lien in favour of the Crown on personal property:
- (a) *The Personal Property Security Act, 1993* applies to the lien;
 - (b) the lien is deemed to be a security interest that is attached for the purposes of *The Personal Property Security Act, 1993*; and
 - (c) the director may perfect the security interest for the purposes of *The Personal Property Security Act, 1993* by registering a financing statement pursuant to that Act.
- (10) If requested to do so by the director, the court may assign duties respecting property to the asset manager when making an order pursuant to subsection (1).
- (11) On oral or written application by the respondent or defendant, the court shall order that any affidavit filed by or on behalf of the respondent or defendant for the purpose of obtaining an order pursuant to this section or section 7 shall be sealed and shall not be reviewable by anyone except the court, a party to the proceedings or counsel to a party to the proceedings for the purpose of the proceedings.
- (12) On application by the director, respondent or defendant, the court may vary, amend or rescind an order granted pursuant to subsection (11).

2009, c.S-46.002, s.6; 2013, c.34, s.5; 2018, c.42, s.65.

Forfeiture order

- 7(1) Subject to section 8, and unless it clearly would not be in the interests of justice, the court shall make an order forfeiting property to the Crown if the court finds that the property is proceeds of unlawful activity or an instrument of unlawful activity.
- (2) In order to make a forfeiture order in an application for forfeiture of property that is alleged to be proceeds of unlawful activity, the court:
- (a) is not required to be satisfied that the property was acquired in connection with a specific unlawful act; and
 - (b) is not required to be satisfied that an increase in the value of property or a decrease in a debt obligation secured against the property arose as the result of a specific unlawful act.
- (3) If a forfeiture order is made pursuant to subsection (1), the property is forfeited to the Crown:
- (a) in the case of real property, as of the date a transfer based on the forfeiture order is registered in the land titles registry; or
 - (b) in the case of personal property, as of the date a notice of an application for a forfeiture order is registered in the personal property registry pursuant to section 5.

(4) Notwithstanding any other Act or law, the Crown does not assume, and is not bound by, any covenants or other obligations under a mortgage or other interest affecting the forfeited property.

2009, c.S-46.002, s.7.

Protection order

8(1) Subject to subsection (3), if property is found to be proceeds of unlawful activity or an instrument of unlawful activity, the court shall make an order to protect interests in the property held by persons entitled to a protection order pursuant to section 9 or 10.

(2) Without limiting the generality of subsection (1), a protection order may:

- (a) sever or partition any interest in the property or require any interest in the property to be sold or otherwise disposed of by any person;
- (b) subject to subsection 7(4), provide that the Crown takes the property subject to the interest of a person;
- (c) direct that the proceeds of the sale of the property be applied to any debt secured by a prior registered interest in the property; or
- (d) direct that any other measures be taken that the court considers necessary to reasonably protect any interest in the property.

(3) The court may refuse to issue a protection order if it considers that it would not be in the interests of justice to do so.

2009, c.S-46.002, s.8.

Protected holders of prior registered interests

9(1) The following holders of a prior registered interest in property that is found to be proceeds of unlawful activity or an instrument of unlawful activity are entitled to a protection order:

- (a) a trust corporation, a loan corporation or a financing corporation licensed pursuant to *The Trust and Loan Corporations Act, 1997*;
- (b) a bank to which the *Bank Act* (Canada) applies;
- (c) a credit union incorporated or registered pursuant to *The Credit Union Act, 1998*, Credit Union Deposit Guarantee Corporation or Credit Union Central of Saskatchewan;
- (d) an insurance company licensed pursuant to *The Saskatchewan Insurance Act*;
- (e) a retail association to which the *Cooperative Credit Associations Act* (Canada) applies;
- (f) the Crown in right of Canada, the Crown in right of Saskatchewan or a municipality;

- (g) the holder of any other prescribed right or interest;
 - (h) any class of prescribed persons whose members are similar to the holders set out in clauses (a) to (e).
- (2) If property is found to be proceeds of unlawful activity or an instrument of unlawful activity, any person who acquired the property or an interest in the property from a person mentioned in subsection (1) is entitled to a protection order.

2009, c.S-46.002, s.9; 2016, cC-45.3, s.22-7.

Other persons entitled to protection order

10(1) If property is found to be proceeds of unlawful activity, a person who owns or has an interest in the property is entitled to a protection order if the person proves:

- (a) that the person:
 - (i) acquired the property or an interest in the property before an interest was registered pursuant to section 4 or 5, as the case may be; and
 - (ii) did not, directly or indirectly, acquire the property or an interest in the property as a result of an unlawful activity; or
 - (b) that the person:
 - (i) co-owns the property with another person whose unlawful activity led to the finding that the property is proceeds of unlawful activity, and did not know and could not reasonably have known that the co-owner's interest in the property was acquired as a result of unlawful activity;
 - (ii) owned or had an interest in the property before the unlawful activity occurred, and was deprived of the property or the benefit of the interest in the property as a result of the unlawful activity;
 - (iii) acquired the property or an interest in the property for fair market value after the unlawful activity occurred, and did not know and could not reasonably have known at the time of the acquisition that the property was proceeds of unlawful activity; or
 - (iv) acquired the property or an interest in the property from a person described in subclause (i) or (iii).
- (2) If property is found to be an instrument of unlawful activity, a person who owns or has an interest in the property is entitled to a protection order if the person proves that he or she:
- (a) acquired the property or an interest in the property before an interest was registered pursuant to section 4 or 5, as the case may be; and
 - (b) did all that he or she could reasonably have done in the circumstances to prevent the property from being used to engage in unlawful activity.

(3) For the purposes of clause (2)(b), and without limiting the generality of that clause, a person can prevent property from being used to engage in unlawful activity by actions including:

- (a) promptly notifying the appropriate law enforcement agencies whenever the person knows that the property has been or is likely to be used to engage in unlawful activity; or
- (b) refusing or withdrawing any permission that the person has authority to give and that the person knows has facilitated or is likely to facilitate the property's being used to engage in unlawful activity.

2009, c.S-46.002, s.10.

PART II.1

Administrative Forfeiture Proceedings

Interpretation

10.1 In this Part:

- (a) “**deadline date**” means the date specified in a notice of administrative forfeiture proceedings given pursuant to sections 10.3 and 10.4 by which persons are required to file a notice of dispute of forfeiture of subject property;
- (b) “**law enforcement agency**” means:
 - (i) a police service or regional police service as defined in *The Police Act, 1990*;
 - (ii) the Royal Canadian Mounted Police; or
 - (iii) a prescribed agency or organization;
- (c) “**notice of dispute**” means a notice of dispute pursuant to section 10.6;
- (d) “**subject property**” means property that is the subject of administrative forfeiture proceedings pursuant to this Part.

2014, c.6, s.4.

Commencement of proceedings

10.2(1) The director may commence administrative forfeiture proceedings against property if:

- (a) the director is satisfied that the property is proceeds of unlawful activity or an instrument of unlawful activity;
- (b) the property is personal property;
- (c) the property has been seized by a law enforcement agency and is being held by or on behalf of that agency;
- (d) the director has reason to believe that the fair market value of the property is less than the prescribed amount;

- (e) no other person has a prior registered interest in the property; and
 - (f) the property is not the subject of an application for a forfeiture order pursuant to Part II.
- (2) In order to commence administrative forfeiture proceedings, the director shall:
- (a) register a notice of the administrative forfeiture proceedings against the subject property in the personal property registry by submitting a financing statement for registration in the personal property registry in accordance with *The Personal Property Security Act, 1993*; and
 - (b) give notice of the administrative forfeiture proceedings in accordance with sections 10.3 and 10.4.
- (3) Part IV of *The Personal Property Security Act, 1993* applies, with any necessary modification, to the registration of a financing statement pursuant to this section.
- (4) The financing statement mentioned in subsection (2) must:
- (a) name as the debtor the person who owns or is in possession of the subject property;
 - (b) name the director as the secured party; and
 - (c) specify as the collateral the subject property.
- (5) If an administrative forfeiture proceeding is discontinued, the notice registered pursuant to subsection (2) must be discharged by the director as soon as is practicable.
- (6) If the director commences administrative forfeiture proceedings pursuant to this section and subsequently files an application for a forfeiture order respecting personal property pursuant to Part II:
- (a) the director is not required to submit a financing statement for registration in the personal property registry pursuant to subsection 5(2) if the director has already submitted a financing statement for registration pursuant to this section; and
 - (b) the notice registered pursuant to this section must not be discharged except in accordance with subsection 5(5).
- (7) An administrative forfeiture proceeding is valid notwithstanding any failure to comply with this section.

2014, c.6, s.4.

Notice to interested persons

10.3(1) The director must give written notice of administrative forfeiture proceedings against the subject property to:

- (a) the person from whom the subject property was seized;
- (b) the law enforcement agency that seized the subject property; and
- (c) any other person who the director believes may have an interest in the subject property.

- (2) A notice pursuant to this section must include the following:
- (a) a description of the subject property;
 - (b) the date the subject property was seized and the place of seizure;
 - (c) the basis on which the director seeks forfeiture of the subject property;
 - (d) a statement that the subject property may be forfeited to the Crown;
 - (e) a statement that a person who intends to oppose forfeiture of the subject property must submit a written notice of dispute to the director at an address set out in the notice by a deadline date specified in the notice;
 - (f) the deadline date for submitting a notice of dispute to the director, which must be at least 30 days after the later of:
 - (i) the date that notice of administrative forfeiture proceedings was received or is deemed to have been received by all persons required to be given notice pursuant to subsection (1); and
 - (ii) the date that public notice of administrative forfeiture proceedings was first given pursuant to section 10.4.
- (3) A notice pursuant to this section may be given to a person by personally serving the person with the notice or by sending a copy of the notice by registered mail to the person's last known address given to the law enforcement agency that seized the subject property.
- (4) A notice pursuant to this section sent by registered mail pursuant to subsection (3) is deemed to have been served on the tenth business day after the date of its mailing.
- (5) Notwithstanding subsection (4), if the director or other person serving a notice in accordance with subsection (3) has received a signed post office receipt and:
- (a) the delivery date shown on the signed post office receipt is a date earlier than the tenth business day after the date of its mailing, the notice is deemed to have been served on the delivery date; or
 - (b) the delivery date is not shown on the signed post office receipt but the signed post office receipt is received by the director or other person on a date earlier than the tenth business day after the date of its mailing, the notice is deemed to have been served on the day on which the signed post office receipt is received by the director or other person.

2014, c.6, s.4.

Public notice of administrative forfeiture proceedings

10.4(1) The director shall give public notice of administrative forfeiture proceedings against the subject property by publishing notice of the proceedings on the ministry's website.

- (2) A notice pursuant to subsection (1) must include the following:
- (a) a description of the subject property;
 - (b) the date the subject property was seized and the place of seizure;

- (c) the basis on which the director seeks forfeiture of the subject property;
- (d) a statement that the subject property may be forfeited to the Crown;
- (e) a statement that a person who intends to oppose forfeiture of the subject property must submit a written notice of dispute to the director at an address set out in the notice by the deadline date specified in the notice;
- (f) the deadline date for submitting a notice of dispute to the director, which must be at least 30 days after the later of:
 - (i) the date that notice of administrative forfeiture proceedings was received or is deemed to have been received by all persons required to be given notice pursuant to subsection 10.3(1); and
 - (ii) the date that public notice of administrative forfeiture proceedings was first given pursuant to this section.

2014, c.6, s.4.

Agency to maintain possession of subject property

10.5(1) Subject to subsection (2), when a law enforcement agency receives a notice of administrative forfeiture proceedings from the director pursuant to clause 10.3(1) (b), it must maintain the subject property and ensure that the property is not released to any person, despite any other claim, interest or right of possession in the property, until it receives:

- (a) a notice from the director indicating that administrative forfeiture proceedings against the subject property have been discontinued;
- (b) a notice of forfeiture from the director pursuant to subsection 10.8(4) that confirms that the subject property has been forfeited to the Crown; or
- (c) notice of an order made pursuant to Part II in relation to the subject property that forfeits the property to the Crown or otherwise deals with the possession of the property.

(2) A law enforcement agency may take any action in relation to the subject property if it has received prior authorization from the director.

2014, c.6, s.4.

Disputing administrative forfeiture

10.6(1) A person who claims to have an interest in the subject property may oppose forfeiture of the property by filing a notice of dispute with the director in the prescribed form.

(2) The notice of dispute must be received by the director on or before the deadline date.

2014, c.6, s.4.

Director's response to notice of dispute

10.7(1) If the director receives a notice of dispute in the prescribed form on or before the deadline date, he or she must, within 60 days after the deadline date:

- (a) apply for a forfeiture order against the property pursuant to Part II; or
- (b) discontinue administrative forfeiture proceedings against the subject property.

(2) If the director decides to discontinue administrative forfeiture proceedings pursuant to clause (1)(b), the director must give notice of that decision in accordance with subsection 10.3(3) to each person who received notice of the administrative forfeiture proceedings pursuant to subsection 10.3(1) and to each person who submitted a notice of dispute.

(3) Subject to section 35.1, if the director discontinues administrative forfeiture proceedings against the subject property pursuant to clause (1)(b), the director may later decide to apply for a forfeiture order against that property pursuant to Part II.

2014, c.6, s.4.

Forfeiture

10.8(1) If the director does not receive a notice of dispute by the deadline date, the subject property is forfeited to the Crown.

(2) The subject property mentioned in subsection (1) is forfeited as of the date a notice of administrative forfeiture proceedings is registered in the personal property registry pursuant to subsection 10.2(2).

(3) When the subject property has been forfeited pursuant to this Part, the director must prepare a notice of forfeiture, in the prescribed form, that confirms that the property has been forfeited to the Crown.

(4) The director must give a copy of the notice of forfeiture to the law enforcement agency that seized the subject property.

(5) When a law enforcement agency has received a notice of forfeiture, it must release the subject property to the asset manager.

2014, c.6, s.4.

Failure to file notice of dispute

10.9(1) A person who claims to have an interest in subject property that was forfeited pursuant to this Part but who failed to file a notice of dispute in accordance with section 10.6 may apply to the court to set aside the forfeiture.

(2) A claimant must apply pursuant to subsection (1) within six months after the deadline date.

(3) In an application pursuant to subsection (1), the claimant must establish:

- (a) the nature of his or her interest in the subject property;
- (b) that he or she had a reasonable excuse for the failure to file a notice of dispute in accordance with section 10.6; and
- (c) that he or she made an application pursuant to this section as soon as was reasonably possible after learning of the forfeiture of the subject property.

- (4) For the purposes of subsection (5), if a claimant is successful in an application pursuant to subsection (1):
- (a) the subject property is deemed not to have been forfeited to the Crown and must not be disposed of except in accordance with this Act; and
 - (b) if the subject property has been disposed of, the proceeds, if any, realized on the sale or disposition of the property are deemed to be the property that is the subject of any forfeiture proceedings pursuant to clause (5)(a).
- (5) If a claimant is successful in an application pursuant to subsection (1), the director shall:
- (a) apply for a forfeiture order against the property pursuant to Part II; or
 - (b) decide not to commence any further proceedings pursuant to this Act against the subject property.
- (6) If the director decides not to commence any further proceedings pursuant to clause (5)(b), the director shall:
- (a) give notice to the law enforcement agency that seized the property stating that proceedings have been discontinued; and
 - (b) either:
 - (i) direct the asset manager to release the property or, if any or all of the property has been disposed of, the proceeds, if any, realized on the sale or disposition of the property to an interested person if the director is satisfied that the person is entitled to the property; or
 - (ii) apply to the court for a determination of who is entitled to the property or, if any or all of the property has been disposed of, the proceeds, if any, realized on the sale or disposition of the property.
- (7) In an application made pursuant to subclause (6)(b)(ii), the court may hear any party, consider any information or make any order it considers necessary to determine who is entitled to the property and direct the release of the property to that person.
- (8) If the property that is the subject of an application pursuant to subsection (1) has been disposed of, the proceeds, if any, realized on the sale or disposition of the property are deemed for all purposes to be the fair market value of the property.
- (9) Subject to section 35.1, if the director decides not to commence any further proceedings against the subject property pursuant to clause (5)(b), the director may later decide to apply for a forfeiture order against that property pursuant to Part II.

PART III
Conduct of Proceedings

Standard of proof

11 Except as otherwise provided in this Act, in an application made pursuant to this Act, the standard of proof is to be on the balance of probabilities.

2009, c.S-46.002, s.11.

Proof of offences

12 In an application pursuant to this Act:

(a) proof that a person was convicted, was found guilty, or was found not criminally responsible on account of mental disorder, with respect to an offence is proof that the person committed the offence; and

(b) evidence that a person was charged with and acquitted of an offence, or that such a charge was withdrawn or stayed, or that a person was not charged with an offence, is not relevant in making a finding of fact.

2009, c.S-46.002, s.12; 2013, c.34, s.6.

Disclosure of interests

13 At the hearing of an application for a forfeiture order made pursuant to section 3, the director must advise the court of all prior registered interests in the property that is the subject of the application and any other interests that the director has reason to believe exist.

2009, c.S-46.002, s.13.

Presumption re proceeds of unlawful activity

14 In an application for forfeiture of property that is alleged to be proceeds of unlawful activity, evidence that a person did the following is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is proceeds of unlawful activity:

(a) participated in unlawful activity that resulted in, or is likely to have resulted in, the person receiving a financial benefit; and

(b) subsequently did one or more of the following:

(i) acquired property that is the subject of the application;

(ii) caused an increase in the value of property that is the subject of the application;

(iii) caused a decrease in a debt obligation secured against property that is the subject of the application.

2009, c.S-46.002, s.14.

Presumption for members of criminal organization

15 In an application for forfeiture of property that is alleged to be proceeds of unlawful activity, evidence that the property is owned or possessed by any of the following is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is proceeds of unlawful activity:

- (a) a member of a criminal organization;
- (b) a corporation, if a member of a criminal organization is one of its officers or directors or has a significant ownership interest in it;
- (c) a person to whom the property was transferred for consideration that was significantly less than fair market value at the time of transfer, if the transferor was a person described in clause (a) or (b).

2009, c.S-46.002, s.15.

Presumption for instruments of unlawful activity

16 In an application for a forfeiture order respecting property that is alleged to be an instrument of unlawful activity, evidence that the property was used to engage in unlawful activity that, in turn, resulted in the acquisition or production of other property or in serious bodily harm to a person is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity.

2009, c.S-46.002, s.16.

Presumption re criminal organization offence

17 In an application made pursuant to this Act there is a rebuttable presumption that a person is a member of a criminal organization if he or she has been found guilty or convicted of a criminal organization offence as defined in section 2 of the *Criminal Code*.

2009, c.S-46.002, s.17.

Proceedings by statement of claim

17.1(1) Unless otherwise provided for in this Act or the regulations, *The Queen's Bench Rules* apply to all proceedings commenced pursuant to this Act.

(2) If the director proceeds by statement of claim and no statement of defence is filed by the defendant or defendants within the time limit set out in *The Queen's Bench Rules*:

- (a) the claim may be noted for default of defence and no defence is permitted to be filed unless the court is satisfied that it is clearly in the interests of justice to allow a defence to be filed;
- (b) if a claim has been noted for default, the director may apply without notice to the court for judgment and the court shall not require the director to provide any notification or service of the application for judgment on a defendant; and

- (c) in considering an application without notice application made pursuant to clause (b), the court shall:
- (i) for the purposes of subsection 7(1), consider that the facts set forth in the statement of claim are proven to be true; and
 - (ii) if satisfied that the property is proceeds of unlawful activity or an instrument of unlawful activity, grant a forfeiture order pursuant to subsection 7(1) together with any other relief the court considers appropriate.
- (3) If a statement of defence is filed in accordance with *The Queen's Bench Rules*, the defendant is compellable to attend an examination for discovery and to answer all questions broadly relevant to the proceedings.
- (4) The director and any person acting for or under the direction of the director pursuant to this Act is not a compellable witness for the purpose of an examination for discovery.
- (5) If a defendant is examined for discovery, the transcript of the discovery is, on filing with the court, deemed to be sealed and not reviewable by anyone except the court, a party to the proceedings or counsel to a party to the proceedings for the purpose of the proceedings.
- (6) The director may satisfy the requirements of section 13 by filing a certificate at the time of trial or at the time the application is made pursuant to clause (2)(b) setting out the prior registered interest in the property and any other interest the director has reason to believe exists.
- (7) *The Queen's Bench Rules* with respect to expedited or simplified proceedings do not apply to applications made pursuant to this Act unless agreed to by the director.

2013, c.34, s.7; 2018, c.42-, s.65.

Appeal of order

18(1) Subject to section 21, an order made pursuant to this Act may only be appealed to the Court of Appeal:

- (a) on a question of law; and
 - (b) with leave of a judge of the Court of Appeal.
- (2) An application for leave to appeal must be made within 14 days after the day the order of the court is pronounced or within any further time the Court of Appeal may allow.
- (3) A notice of appeal must be served on the parties to the original application within 14 days after an order has been served.
- (4) The director is a party to any appeal and is entitled to be heard, by counsel or otherwise, on the appeal.

2009, c.S-46.002, s.18.

Decision by Court of Appeal

19(1) On the hearing of an appeal, the Court of Appeal may:

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) allow the appeal subject to terms;
- (d) vary the order of the court; or
- (e) make any other order that the Court of Appeal considers appropriate.

(2) The Court of Appeal may make any order as to costs that the Court of Appeal considers appropriate.

2009, c.S-46.002, s.19.

No further appeal

20 The decision of the Court of Appeal is final and there is no further appeal.

2009, c.S-46.002, s.20.

No appeal of forfeiture order

21 There is no appeal of a forfeiture order.

2009, c.S-46.002, s.21.

PART IV
Administration

Director appointed

22(1) The minister may appoint a person as director and may appoint one or more other persons as deputy directors.

(2) The director is responsible for:

- (a) determining whether to commence proceedings pursuant to this Act;
- (b) commencing and conducting proceedings pursuant to this Act; and
- (c) performing any other duties assigned by this Act.

(3) The director may appoint any person to carry out any responsibility imposed on the director pursuant to this Act or to exercise any of the powers conferred on the director pursuant to this Act that the director believes may be more conveniently carried out or exercised by that person.

(4) The director may impose any limitations or terms and conditions that the director considers appropriate on an appointment pursuant to subsection (3).

(5) The exercise of any of the director's powers or the carrying out of any of the director's responsibilities by a person who is appointed pursuant to subsection (3) is deemed to be the exercise or the carrying out by the director.

2009, c.S-46.002, s.22.

Director may collect information

23(1) In this section:

- (a) **“government institution”** means a government institution as defined in *The Freedom of Information and Protection of Privacy Act*;
 - (b) **“local authority”** means a local authority as defined in *The Local Authority Freedom of Information and Protection of Privacy Act*.
- (2) The director is authorized to collect information, including personal information, from a government institution or a local authority for the following purposes:
- (a) to determine whether proceedings should be commenced pursuant to this Act;
 - (b) to conduct proceedings pursuant to this Act;
 - (c) to enforce or comply with an order made pursuant to this Act.
- (3) A government institution or a local authority:
- (a) is authorized to disclose information, including personal information, to the director for a purpose set out in subsection (2); and
 - (b) must provide the director with information requested by the director for a purpose set out in subsection (2).
- (4) Notwithstanding subsection (3), a government institution or a local authority is not required to disclose to the director information that is subject to solicitor-client privilege or any other privilege.

2009, c.S-46.002, s.23.

Authorized disclosure

24 The director may disclose information obtained pursuant to subsection 23(2):

- (a) in order to exercise any power or duty pursuant to this Act;
- (b) for a purpose for which the information could be collected pursuant to that subsection; and
- (c) to a person pursuant to an agreement entered into pursuant to section 25.

2009, c.S-46.002, s.24.

Reciprocal information exchange agreements

25 The director may disclose information obtained pursuant to this Act to a person employed by a government inside or outside of Canada who is assigned duties and responsibilities pursuant to an Act that allows for the civil forfeiture of proceeds of unlawful activity or instruments of unlawful activity if:

- (a) the director has entered into an agreement with that government for the reciprocal exchange of information relating to the civil forfeiture of the property; and
- (b) the director is satisfied that the information will be used only for purposes related to the civil forfeiture of property in that jurisdiction.

2009, c.S-46.002, s.25.

Agreements with other jurisdictions

26 Subject to the approval of the Lieutenant Governor in Council, the director may enter into an agreement with a government inside or outside of Canada to enable that government to provide information to the director that will assist the director in exercising or performing the director's powers and duties pursuant to this Act.

2009, c.S-46.002, s.26.

Asset manager appointed

27(1) The minister may appoint a person as asset manager and may appoint one or more other persons as deputy asset managers.

(2) The asset manager is responsible for taking possession of and managing the following:

- (a) property forfeited to the Crown pursuant to this Act;
- (b) property that is the subject of a management order obtained by the Crown pursuant to section 83.13, 462.331 or 490.81 of the *Criminal Code* or section 93 of the *Cannabis Act* (Canada);
- (c) property that is subject to a restraint order obtained by the Crown pursuant to section 462.33 or 490.8 of the *Criminal Code* or section 91 of the *Cannabis Act* (Canada);
- (d) property forfeited to the Crown pursuant to section 83.14, 199, 462.37, 462.38, 462.43, 490, 490.01, 490.1, 490.2 or 491.1 of the *Criminal Code* or section 94 or 95 of the *Cannabis Act* (Canada);
- (e) any other property forfeited to the Crown pursuant to a prescribed provision of:
 - (i) the *Criminal Code*;
 - (ii) the *Cannabis Act* (Canada); or
 - (iii) any other prescribed Act.

(3) The asset manager is responsible for taking possession of and managing property that is the subject of an interim order pursuant to section 6 in which the court assigns duties to the asset manager.

2009, c.S-46.002, s.27; 2018, cC-2.111, s.7-18.

Powers of asset manager

28(1) Subject to the terms of an order of the court, the asset manager may manage, sell or otherwise dispose of or deal with property mentioned in section 27, other than cash, in the manner that the asset manager considers appropriate, including:

- (a) preserving or managing forfeited property for the length of time and on the terms that the asset manager considers appropriate;

- (b) doing anything that the asset manager considers appropriate for the ongoing management or operation of forfeited property before it is sold or otherwise disposed of, including making improvements to the property to maintain or increase its value;
 - (c) selling, assigning or otherwise disposing of the forfeited property, or any interest in the property, at the price and on the terms that the asset manager considers appropriate; and
 - (d) donating or destroying the forfeited property if:
 - (i) the property is perishable, rapidly depreciating or requiring so much repair or improvement that a sale is not commercially viable;
 - (ii) the property has little or no commercial value; or
 - (iii) the donation or destruction of the property is in the public interest.
- (2) The asset manager may incur costs and expenses in managing and selling forfeited property.
- (3) The asset manager may:
- (a) provide directions to the sheriff regarding the seizure of property and the delivery of that property to the asset manager; and
 - (b) authorize a sheriff to sell forfeited property on behalf of the asset manager.

2009, c.S-46.002, s.28.

Power of sheriff to seize forfeited property

- 29(1)** The sheriff may seize property mentioned in clauses 27(2)(a) to (e) that has been forfeited to the Crown on the instruction of the asset manager pursuant to subsection 28(3).
- (2) A sheriff acting pursuant to subsection (1) has all the powers of a sheriff acting pursuant to *The Executions Act*.
- (3) The sheriff shall be paid the costs of any seizure conducted pursuant to this Act by the asset manager from the proceeds mentioned in clause 34(2)(a).

2009, c.S-46.002, s.29.

PART V

Criminal Property Forfeiture Fund

Criminal property forfeiture fund established

- 30(1)** The criminal property forfeiture fund is established.
- (2) The fund consists of:
- (a) all moneys generated by the possession and management of property mentioned in section 27, including, if applicable, dispositions of that property;
 - (b) all moneys donated, bequeathed or given to the fund;
 - (c) advances from the general revenue fund;

- (d) all moneys appropriated by the Legislature for the purposes of the fund;
 - (e) all investments of the fund and earnings on those investments;
 - (f) any other moneys that may be designated by the Lieutenant Governor in Council.
- (3) Notwithstanding *The Financial Administration Act, 1993*, the moneys described in subsection (2) shall be deposited in the fund and not the general revenue fund.
- (4) The minister shall administer the fund in accordance with this Act.
- (5) The fiscal year of the fund is the period commencing on April 1 in one year and ending on March 31 in the following year.
- (6) With respect to each fiscal year of the fund, the minister shall, in accordance with section 13 of *The Executive Government Administration Act*, submit to the Lieutenant Governor in Council:
- (a) a report on the business of the fund for the preceding fiscal year; and
 - (b) a financial statement showing the business of the fund for the preceding fiscal year, in any form that Treasury Board may require.
- (7) The minister shall, in accordance with section 13 of *The Executive Government Administration Act*, lay before the Legislative Assembly each report and statement mentioned in subsection (6).
- (8) The Provincial Auditor, or any other auditor or firm of auditors that the Lieutenant Governor in Council may designate, shall audit the accounts and transactions of the fund:
- (a) annually; and
 - (b) at any other times that the Lieutenant Governor in Council may specify.

2009, c.S-46.002, s.30; 2014, c.E-13.1, s.62.

Investments of fund

- 31(1)** The minister may invest any moneys in the fund not presently required for the purposes of the fund in any class of investments authorized for the investment of money in the general revenue fund pursuant to *The Financial Administration Act, 1993*.
- (2) The minister may dispose of any securities in which any part of the fund has been invested pursuant to subsection (1), subject to the terms of the investment, in any manner and on any terms that the minister considers advisable.
- (3) Notwithstanding subsection (1), the minister may invest any moneys in the fund by placing the moneys with the public guardian and trustee, as defined in *The Public Guardian and Trustee Act*, pursuant to section 6.2 of that Act.

2009, c.S-46.002, s.31.

Powers of minister re fund

32(1) The minister may take any action that the minister considers necessary for the purposes of managing, investing or disposing of all or any part of the assets of the fund, and, without limiting the generality of the foregoing, may:

- (a) enter into any agreement;
- (b) engage the services of or retain technical, professional or other advisers, specialists or consultants.

(2) The costs incurred pursuant to subsection (1) in, and other expenses related to, managing, investing or disposing of all or any part of the assets of the fund are a charge on and payable out of the fund.

2009, c.S-46.002, s.32.

Treasury Board orders and directives

33 The fund is subject to any orders made and any directives issued by Treasury Board pursuant to *The Financial Administration Act, 1993*.

2009, c.S-46.002, s.33.

Use of fund

34(1) Subject to the terms of a protection order, the fund is to be used in accordance with this section.

(2) Money paid into the fund pursuant to clause 30(2)(a) may be used for the following purposes:

- (a) for costs and expenses incurred by the asset manager in managing and selling forfeited property;
- (b) for costs and expenses incurred by the director in bringing an application for forfeiture or commencing administrative forfeiture proceedings, including any costs and expenses incurred in any proceedings leading to the forfeiture;
- (c) on an equal basis to police operations and to the victims' fund at the direction of the minister and the minister responsible for *The Police Act, 1990*;
- (d) to pay for labour, supervisory and administrative costs associated with:
 - (i) taking possession of and managing property pursuant to Part IV of this Act; and
 - (ii) the administration of the fund;
- (e) for any other prescribed purpose.

(3) Money paid into the fund pursuant to clauses 30(2)(b) to (f) may be distributed at the direction of the minister.

2009, c.S-46.002, s.34; 2014, c.6, s.5.

PART VI
General

Other remedies reserved

35 Any rights provided pursuant to this Act are in addition to, and do not derogate from, the right to commence any other action or proceeding that exists at common law or pursuant to any other Act.

2009, c.S-46.002, s.35.

Limitation of proceedings

35.1 Notwithstanding *The Limitations Act*, no application or administrative forfeiture proceeding pursuant to this Act may be commenced after two years from the day on which the director becomes satisfied that property is proceeds of unlawful activity or an instrument of unlawful activity.

2013, c.34, s.8; 2014, c.6, s.6.

No interest in property

36 In an application made pursuant to this Act, a person cannot claim to have an interest in property if it would be an offence under the law of Canada or Saskatchewan for the person to possess the property.

2009, c.S-46.002, s.36.

The Escheats Act does not apply

37 *The Escheats Act* does not apply to property forfeited to the Crown pursuant to this Act.

2009, c.S-46.002, s.37.

Director not compellable as witness

38 Except in an application pursuant to this Act, the director, and any person acting for or under the direction of the director, cannot be compelled in court or in any other proceeding:

- (a) to give evidence about information obtained by or on behalf of the director for the purposes of this Act; or
- (b) to produce any document or other thing obtained by or on behalf of the director for the purposes of this Act.

2009, c.S-46.002, s.38.

Evidence based on information and belief

38.1 Evidence based on information and belief is admissible with respect to any application pursuant to this Act.

2013, c.34, s.9.

Immunity

39 No action or proceeding lies or shall be commenced against the Crown, the minister, the director, any deputy director, the asset manager, any deputy asset manager or any sheriff if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

2009, c.S-46.002, s.39.

Regulations

40 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) respecting the costs and expenses that the director may claim for bringing an application for forfeiture or commencing administrative forfeiture proceedings, including any costs and expenses incurred in any proceedings leading to the forfeiture;
- (c) for the purposes of clause 9(1)(g), prescribing rights and interests;
- (d) for the purposes of clause 9(1)(h), prescribing a class of persons;
- (d.1) for the purposes of Part II.1, prescribing agencies or organizations as law enforcement agencies;
- (d.2) for the purposes of clause 10.2(1)(d), prescribing the maximum fair market value of property;
- (d.3) prescribing forms for the purposes of this Act;
- (e) respecting the process for and legal effect of any registration, amendment or removal of any interest authorized by this Act in the land titles registry or the personal property registry;
- (f) for the purposes of clause 27(2)(e):
 - (i) prescribing additional provisions of the *Criminal Code*; and
 - (ii) prescribing additional provisions of any other Act;
- (g) for the purposes of clause 34(2)(e), prescribing entities to whom or purposes for which the proceeds of the forfeited property are to be distributed;
- (h) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (i) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2009, c.S-46.002, s.40; 2014, c.6, s.7.

PART VII

Repeal, Consequential and Coming into Force

- 41 **Dispensed.** This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.
- 42 **Dispensed.** This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.
- Coming into force**
- 43 This Act comes into force on proclamation.

2009, c.S-46.002, s.43.

