



BILL NO. 134

Government Bill

*1st Session, 65th General Assembly
Nova Scotia
4 Charles III, 2025*

An Act Respecting the Administration of Justice

CHAPTER 15
ACTS OF 2025

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 3, 2025**

The Honourable Becky Druhan
Attorney General and Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act Respecting the Administration of Justice

Be it enacted by the Governor and Assembly as follows:

- 1** This Act may be cited as the *Justice Administration Amendment (Fall 2025) Act*.

PART I

AUDITOR GENERAL ACT

- 2** **Section 20 of Chapter 33 of the Acts of 2010, the *Auditor General Act*, is repealed.**

PART II

CAPE BRETON BARRISTERS' SOCIETY ACT

- 3** **Section 7 of Chapter 58 of the Revised Statutes, 1989, the *Cape Breton Barristers' Society Act*, is repealed.**

PART III

CIVIL FORFEITURE ACT

- 4** The Schedule, the *Civil Forfeiture Act*, comes into force as provided for in that Schedule.

PART IV

FATALITY INVESTIGATIONS ACT

- 5** **Subsection 39E(5) of Chapter 31 of the Acts of 2001, the *Fatality Investigations Act*, is repealed and the following subsections substituted:**

(5) The Chief Medical Examiner, or a medical examiner designated by the Chief Medical Examiner, is a member and the Chair of all Committees.

(5A) Notwithstanding subsection (5), after consultation with the Chief Medical Examiner, the Minister may designate a member of a Committee to be the Chair of that Committee in place of the Chief Medical Examiner or the medical examiner designated by the Chief Medical Examiner.

- 6** **Subsection 41A(1) of Chapter 31, as enacted by Chapter 30 of the Acts of 2019, is amended by adding immediately after clause (b) the following clause:**

(ba) respecting the designation of a Chair of a Committee by the Minister pursuant to subsection 39E(5A);

PART V

INTERJURISDICTIONAL SUPPORT ORDERS ACT

7 Section 2 of Chapter 9 of the Acts of 2002, the *Interjurisdictional Support Orders Act*, as amended by Chapter 30 of the Acts of 2002 and Chapter 24 of the Acts of 2012, is further amended by adding immediately after clause (a) the following clause:

(aa) “child support service” means the child support service established under the *Parenting and Support Act*;

8 Subsections 10(1) and (2) of Chapter 9 are repealed and the following subsections substituted:

10 (1) Where the designated authority receives a support application from an appropriate authority in a reciprocating jurisdiction with information that the respondent habitually resides in the Province, the designated authority shall file the application with the Nova Scotia court, accompanied by a notice of hearing as required by the regulations.

(2) Where a support application concerns only support for a child, the designated authority may forward the application to the child support service for a calculation of the amount of support to be paid, in which case subsection (1) does not apply.

(2A) Where the child support service is unable to make a calculation decision on a support application that has been forwarded to it, the child support service shall return the support application to the designated authority, who shall then file it with the Nova Scotia court under subsection (1).

(2B) Where the designated authority files a support application with the Nova Scotia court, the designated authority shall serve the documents referred to in subsection (1) on the respondent, in accordance with the regulations.

(2C) For greater certainty, the claimant is not required to be served with the documents referred to in subsection (1).

9 Subsections 34(1) and (2) of Chapter 9 are repealed and the following subsections substituted:

34 (1) Where the designated authority receives a support-variation application from an appropriate authority in a reciprocating jurisdiction with information that the respondent habitually resides in the Province, the designated authority shall file the application with the Nova Scotia court, accompanied by a notice of hearing as required by the regulations.

(2) Where a support-variation application concerns only support for a child, the designated authority may forward the application to the child support service for a recalculation of the amount of support to be paid, in which case subsection (1) does not apply.

(2A) Where the child support service is unable to make a recalculation decision on a support-variation application that has been forwarded to it, the child

support service shall return the support-variation application to the designated authority, who shall then file it with the Nova Scotia court under subsection (1).

(2B) Where the designated authority files a support-variation application with the Nova Scotia court, the designated authority shall serve the documents referred to in subsection (1) on the respondent, in accordance with the regulations.

(2C) For greater certainty, the claimant is not required to be served with the documents referred to in subsection (1).

10 Section 42 of Chapter 9 is amended by adding immediately after subsection (3) the following subsection:

(3A) In addition to the service requirements of the Nova Scotia Court of Appeal, a notice of an appeal under subsection (2) must be given to the designated authority within ten days after the appeal is commenced.

PART VI

JURIES ACT

11 Clause 4(e) of Chapter 16 of the Acts of 1998, the *Juries Act*, is amended by adding “and for which no pardon or record suspension is in effect” immediately after “more”.

PART VII

LEGAL PROFESSION ACT

12 Sections 83 to 85 and 88 of Chapter 28 of the Acts of 2004, the *Legal Profession Act*, are repealed.

PART VIII

ORDER OF NOVA SCOTIA ACT

13 Section 3 of Chapter 9 of the Acts of 2001, the *Order of Nova Scotia Act*, is amended by striking out “Tourism and Culture” and substituting “Intergovernmental Affairs”.

14 Sections 13 to 19, 21 and 22 of Chapter 9 are repealed and the following Section substituted:

13 (1) A Secretary of the Order shall be appointed in accordance with the regulations.

(2) The powers and duties of the Secretary are as set out in the regulations.

15 Section 24 of Chapter 9 is repealed and the following Section substituted:

- 24 (1) The Governor in Council may make regulations
- (a) respecting the powers and duties of the Chancellor;
 - (b) making the Chancellor a member of the Order;
 - (c) respecting the powers and duties of the Advisory Council;
 - (d) prescribing the terms of office of members of the Advisory Council;
 - (e) respecting the position of Secretary, including the powers, duties and appointment process of the Secretary;
 - (f) respecting eligibility conditions for membership in the Order;
 - (g) respecting nominations for membership in the Order;
 - (h) respecting procedures for appointing new members of the Order;
 - (i) respecting the terms of membership in the Order;
 - (j) respecting the rights of members of the Order;
 - (k) respecting documentation of membership in the Order;
 - (l) prescribing the insignia of the Order and governing their use and display;
 - (m) respecting the Seal of the Order and its use;
 - (n) respecting termination of membership in the Order;
 - (o) defining any word or expression used but not defined in this Act;
 - (p) respecting any other matter the Governor in Council considers necessary or advisable to carry out the intent and purpose of this Act.
- (2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

16 (1) Every member of the Order of Nova Scotia under the *Order of Nova Scotia Act* at the coming into force of this Act is deemed to be a member of the Order under the regulations respecting membership made under that Act.

(2) Upon the coming into force of this Act, a reference to a person appointed as a member of the Order of Nova Scotia under the *Order of Nova Scotia Act* in any document, proceeding or enactment is deemed to be a reference to a person appointed as a member of the Order under those regulations.

PART IX

PARENTING AND SUPPORT ACT

17 Section 54A of Chapter 160 of the Revised Statutes, 1989, the *Parenting and Support Act*, is repealed and the following Section substituted:

54A (1) The Minister of Justice, on behalf of the Government of the Province, may, with the approval of the Governor in Council, enter into an agreement with the Minister of Justice of Canada, on behalf of the Government of Canada, respecting the use of a child support service established by the regulations for the purposes set out in subsection (2).

(2) A child support service referred to in subsection (1) may be authorized by the agreement to

(a) conduct the administrative calculation of child support when a divorce proceeding is initiated under the *Divorce Act* (Canada), in accordance with the *Federal Child Support Guidelines* made under the *Divorce Act* (Canada);

(b) recalculate or vary the amount of child support payable under a child support order made under the *Divorce Act* (Canada), in accordance with the *Federal Child Support Guidelines* made under the *Divorce Act* (Canada); and

(c) set out the child support amount determined under clause (a) or (b) in a decision.

18 Subsection 55(1) of Chapter 160, as amended by Chapter 3 of the Acts of 1997 (2nd Session), Chapter 25 of the Acts of 2012 and Chapter 15 of the Acts of 2021, is further amended by adding immediately after clause (ai) the following clauses:

(aj) setting out classes of child support orders;

(ak) respecting the establishment of a child support service;

(al) respecting the calculation, recalculation and variation of child support made by the child support service;

(am) establishing requirements or criteria for the determination of whether child support is eligible for calculation or recalculation by the child support service;

(an) respecting applications to the child support service;

(ao) respecting notices and information that must be provided to or by the child support service;

(ap) prescribing information that must be provided in a calculation or recalculation decision made by the child support service;

(aq) respecting the collection, use and disclosure of personal information by the child support service, including the purposes for which information may be collected, used or disclosed by the child support service;

PART X

PROBATE ACT

19 Subsection 30(2) of Chapter 31 of the Acts of 2000, the *Probate Act*, as amended by Chapter 50 of the Acts of 2007, is further amended by adding “, a commissioner of oaths” immediately after “Court”.

PART XI

EFFECTIVE DATES

20 (1) Parts II and VII have effect on and after April 1, 2026.

(2) Parts IV and VIII come into force on such day as the Governor in Council orders and declares by proclamation.

SCHEDULE

An Act Respecting Civil Forfeiture

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Civil Forfeiture Act*.

2 The purpose of this Act is to provide civil remedies that will assist in

(a) preventing persons who engage in unlawful activities and other persons from keeping property that was acquired as a result of unlawful activity; and

(b) preventing property from being used to engage in unlawful activity.

3 (1) In this Act,

“administrative forfeiture proceeding” means a proceeding commenced under subsection 24(2);

“controlled substance” means a controlled substance as defined in the *Controlled Drugs and Substances Act* (Canada);

“court” means the Supreme Court of Nova Scotia;

“criminal organization” means a criminal organization as defined in section 2 of the *Criminal Code* (Canada);

“Director” means the Director of Civil Forfeiture;

“financed vehicle” means personal property that is a serial-numbered good and that is subject to a specified security interest in the whole or a portion of an interest in the personal property;

“Forfeiture Account” means the special account continued under Section 67;

“forfeiture order” means an order made under subsection 18(1);

“forfeiture order proceeding” means a proceeding commenced under Section 12;

“instrument of unlawful activity” means property that

(a) has been used to engage in unlawful activity that, in turn,

(i) resulted in or was likely to result in the acquisition of property, or

(ii) caused or was likely to cause serious bodily harm to a person; or

(b) is likely to be used to engage in unlawful activity that, in turn, would be likely to, or is intended to,

- (i) result in the acquisition of property, or
- (ii) cause serious bodily harm to a person;

“law enforcement agency” means

- (a) a police service;
- (b) a department, branch or agency of the Government of Nova Scotia or the Government of Canada; or
- (c) a prescribed agency or organization;

“Minister” means the Minister of Justice;

“person” includes an organization, association, group or partnership;

“personal property registry” means the personal property registry continued under the *Personal Property Security Act*;

“preliminary preservation order” means an order referred to in subsection 6(1);

“preliminary preservation order proceeding” means a proceeding commenced under subsection 6(1);

“prescribed” means prescribed by the regulations;

“prior registered interest” means

(a) with respect to real property, an interest, lien or judgment that was filed or registered against the property in accordance with the *Land Registration Act* before

(i) a notice of preliminary preservation order was filed under subsection 7(1),
or

(ii) a notice of forfeiture order proceeding was filed under clause 15(1)(a); and

(b) with respect to personal property, a security interest, lien, charge or other interest in respect of which a financing statement was registered against the property in the personal property registry in accordance with the *Personal Property Security Act* before

(i) a notice of preliminary preservation order was filed under subsection 7(1),

(ii) a notice of forfeiture order proceeding was filed under clause 15(1)(a), or

(iii) a notice of administrative forfeiture proceeding was filed under subsection 24(3);

“prior registered interest holder” means a person who has a prior registered interest in a property;

“proceeds of unlawful activity” means property

(a) 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;

(b) in respect of which an increase in the value of the property resulted, directly or indirectly and in whole or in part, from unlawful activity;

(c) in respect of which a decrease in a debt obligation secured against the property resulted, directly or indirectly and in whole or in part, from unlawful activity; or

(d) realized by the sale or other disposition of an instrument of unlawful activity,

but does not include consideration paid or payable under a contract for the recollection of a crime, as defined in the *Criminal Notoriety Act*;

“property” means real or personal property, and includes any interest in real or personal property, and, for greater certainty, includes crypto assets, such as cryptocurrency, and cash;

“protection order” means an order made under Section 19;

“responsible officer” means

(a) in relation to a corporation, an individual who is an officer or director of that corporation;

- (b) in relation to a partnership,
 - (i) an individual who is a partner, general partner or limited partner in the partnership,
 - (ii) an individual who is a director or officer of a corporation that is a partner, general partner or limited partner in the partnership, or
 - (iii) an individual who is a partner, general partner or limited partner in a partnership that is a partner in the respondent partnership; and
 - (c) in relation to a respondent that is a member of a prescribed class of respondents, an individual who is in a prescribed position or relationship with respect to the respondent;
- “serial numbered goods” means a motor vehicle, manufactured home, boat, outboard motor, trailer or aircraft;
- “specified interest holder”, in relation to a financed vehicle, means a person who
- (a) at the time a forfeiture order proceeding is initiated in relation to the vehicle or the whole or a portion of an interest in the vehicle, holds
 - (i) a specified security interest in the vehicle, or
 - (ii) the whole or a portion of the interest in the vehicle; and
 - (b) did not directly or indirectly engage in the unlawful activity that is the basis of the forfeiture under this Act;
- “public body” means a public body as defined in the *Freedom of Information and Protection of Privacy Act*;
- “traffic” has the same meaning as in the *Controlled Drugs and Substances Act* (Canada);
- “unexplained wealth order” means an order made under subsection 9(6);
- “unlawful activity” means an act or omission, whether occurring before or after the coming into force of this Act, that is an offence under
- (a) a law of Canada, the Province or another province of Canada; or
 - (b) a law of a jurisdiction outside Canada, if a similar act or omission would be an offence under a law of Canada or the Province if it were committed in the Province.
- (2) In this Act, a person with an interest in a property includes a person who
- (a) has a beneficial ownership interest in the property through one or more trusts, corporations or other arrangements; or
 - (b) exercises or can exercise control over the property through a family or business relationship.

4 (1) All property located in the Province is subject to this Act, including property that is brought into the Province by a law enforcement agency.

(2) Property is subject to this Act regardless of when the property was acquired.

(3) Property is subject to this Act even if more than one person has an interest in the property.

ORDERS TO PRODUCE INFORMATION AND PRELIMINARY PRESERVATION ORDERS

5 (1) On application of the Director, a court may at any time make an order requiring a person to disclose to the Director information or records in the custody or control of the person if the court is satisfied that the information or records are reasonably required by the Director in order to exercise the Director’s powers or perform the Director’s duties or functions under this Act.

(2) The Director may apply for an order under subsection (1) before, at the time of or subsequent to commencing a preliminary preservation order proceeding, a forfeiture order proceeding or a motion seeking an interim order respecting property that is the subject of a forfeiture order proceeding.

(3) An order under subsection (1) shall require that the Director, by a date specified in the order, pay to the person who is subject to an order under subsection (1) the reasonable costs of producing, reproducing or delivering the information or records as determined by the court.

6 (1) Before commencing a forfeiture order proceeding or administrative forfeiture proceeding in respect of property, the Director may apply to the court for one or more of the following orders:

- (a) an order restraining the disposition of the property;
- (b) an order for the possession, delivery or safekeeping of the property;
- (c) any other order respecting the preservation, management or disposition of the property, or a part of the property, that the court considers just.

(2) A notice of application for a preliminary preservation order must describe the property with sufficient detail to make it readily identifiable.

(3) The following persons must be named as parties to a preliminary preservation order proceeding:

- (a) the owner of the property;
- (b) any person other than the owner who is in possession of the property, unless the property is in the possession of a law enforcement agency; and
- (c) any other person whom the Director believes may have an interest in the property, unless the interest in question is a utility interest as defined in the *Land Registration Act*.

(4) Notwithstanding that there are parties to a preliminary preservation order proceeding, preliminary preservation order proceedings are *in rem* and not *in personam*.

(5) An application for a preliminary preservation order may be made without notice to the parties to the proceeding.

(6) A person who files a response in a preliminary preservation order proceeding shall identify in the response the nature and extent of the interest that the person claims in the property that is the subject of the proceeding.

(7) Unless it would clearly not be in the interests of justice, the court shall make a preliminary preservation order if the court is satisfied that one or both of the following constitute a serious question to be tried:

- (a) whether the property is proceeds of unlawful activity;
- (b) whether the property is an instrument of unlawful activity.

(8) Where a preliminary preservation order is made on an application without notice to the parties to the proceeding, the term of the preliminary preservation order may not exceed 60 days.

(9) Subject to subsections (10) and (11), the court may grant one or more extensions to a preliminary preservation order, whether or not the order was made on an application without notice to the parties to the proceeding.

(10) Where a preliminary preservation order was made on an application without notice to the parties to the proceeding, a motion to extend the order may be made only on notice to all parties to the proceeding, unless the court is satisfied that the order ought to be extended without notice to a party because that party has been evading service or because there are other exceptional circumstances.

(11) Where an extension to a preliminary preservation order is granted on a motion without notice to all parties to the proceeding, the extension must not exceed 60 days.

7 (1) Upon receiving a preliminary preservation order, the Director shall file a notice of preliminary preservation order against the property

- (a) in respect of real property, in the prescribed form, in the registry of deeds; or
- (b) in respect of personal property, in the prescribed form, in the personal property registry.

(2) Where the Director has not commenced a forfeiture order proceeding or an administrative forfeiture proceeding with respect to the property before the expiry of the preliminary preservation order, the Director shall cancel the notice filed under subsection (1) as soon as possible.

8 Where an application under Section 5 or 6 is brought without notice, the Director may request that the application and any supporting affidavits or other materials be sealed by the court until the hearing of the application and that access to those documents by persons other than the Director be prohibited.

UNEXPLAINED WEALTH ORDERS

9 (1) Before or after commencing a forfeiture order proceeding, or at the same time as the commencement of a forfeiture order proceeding, the Director may apply to the court for an order requiring a respondent or a responsible officer of the respondent to

- (a) provide a written statement to the Director
 - (i) setting out the nature and extent of the respondent's interest in the property that is the subject of the application,
 - (ii) explaining how the respondent acquired the respondent's interest in the property, including how any costs necessary to acquire and maintain the property were met, or setting out the arrangements that led to the respondent having possession of the property,
 - (iii) setting out the sources and amounts of the respondent's lawfully obtained income and assets,
 - (iv) identifying any persons who have an interest in the property, and
 - (v) setting out any other information relating to the property that may be specified by the court;
- (b) provide the Director with specified records and documents; and
- (c) answer questions respecting the statement and the records and documents that are provided to the Director under clauses (a) and (b) at an examination to be conducted by the Director.

(2) An application for an unexplained wealth order must describe the property that is the subject of the application with sufficient detail to make it readily identifiable.

(3) The following may be named as respondents in the notice of application:

- (a) the owner of the property;
- (b) any person other than the owner who is in possession of the property;
- (c) any person whom the Director believes may have an interest in the property.

(4) Where a respondent is not an individual, the Director may also name a responsible officer of the respondent as a party to the application.

(5) An application for an unexplained wealth order may be made without notice to the parties to the proceeding, unless the court orders otherwise.

(6) Unless it would clearly not be in the interests of justice, the court shall make an unexplained wealth order if the court is satisfied that the Director has reasonable grounds to suspect that

- (a) the respondent
 - (i) is the owner of the property, or
 - (ii) has an interest in the property;
- (b) the fair market value of the property exceeds \$125,000;
- (c) the known sources of the respondent's lawfully obtained income and assets would be insufficient to enable the respondent to acquire the respondent's interest in the property; and
- (d) the respondent or a person who does not deal with the respondent at arm's length is or has been involved in unlawful activity.

(7) For the purpose of subsection (6),

- (a) the respondent is deemed to have acquired the respondent's interest in the property for a price equivalent to its fair market value;
- (b) the court may consider any mortgage, charge or other type of security that may reasonably have been available to enable the respondent to acquire the respondent's interest in the property;

(c) the known sources of the respondent's income and assets are the sources reasonably ascertainable from available information at the time that an application for an unexplained wealth order is made;

(d) the respondent is deemed to possess the property if the property is available for use by the respondent; and

(e) the respondent and another person are deemed not to be dealing at arm's length with each other if they are deemed for the purpose of the *Income Tax Act* (Canada) to not be dealing at arm's length with each other.

(8) An unexplained wealth order must

(a) specify the form and manner in which the statement referred to in clause (1)(a) is to be provided to the Director;

(b) specify the deadline to provide the statement referred to in clause (1)(a) and the records and documents referred to in clause (1)(b) to the Director, which may be different; and

(c) specify

(i) the date, time and location at which the examination referred to in clause (1)(c) is to be conducted, or

(ii) the process for scheduling the examination referred to in clause (1)(c) and a deadline for completing the examination.

(9) The court may grant one or more extensions to a deadline referred to in clauses (8)(b) and (c).

10 The examination of a respondent or responsible officer under an unexplained wealth order must be conducted in accordance with the *Nova Scotia Civil Procedure Rules*.

11 A statement, record or document provided by a person in response to an unexplained wealth order must not be used or disclosed except in proceedings under or for the purpose of this Act.

FORFEITURE ORDER

12 (1) Where the Director is satisfied that property is proceeds of unlawful activity or an instrument of unlawful activity, the Director may commence a proceeding in court seeking an order forfeiting the property to the Province.

(2) Proceedings under subsection (1) may be commenced by action or application.

(3) The statement of claim or notice of application must describe the property for which a forfeiture order is sought with sufficient detail to make it readily identifiable.

(4) All of the following must be named as parties to a forfeiture order proceeding:

(a) the owner of the property;

(b) any person other than the owner who is in possession of the property, unless the property is in the possession of a law enforcement agency;

(c) a person with a prior registered interest in the property, unless the interest in question is a utility interest as defined in the *Land Registration Act*;

(d) any other person whom the Director believes may have an interest in the property.

(5) Notwithstanding that there are parties to a forfeiture order proceeding, forfeiture order proceedings are *in rem* and not *in personam*.

13 (1) Where required by the regulations or ordered by the court, the Director shall provide notice of the forfeiture order proceeding to the parties named in the proceeding.

(2) Except where the court has ordered that notice be given in a different manner, notice required under subsection (1) must be given in the prescribed manner.

14 A person who files a response in a forfeiture order proceeding shall identify in the response the nature and extent of the interest that the person claims in the property for which a forfeiture order is sought.

15 (1) Upon commencing a forfeiture order proceeding, the Director shall

(a) where the proceeding is in respect of real property, file notice of forfeiture order proceeding against the property, in the prescribed form, in the registry of deeds; or

(b) where the proceeding is in respect of personal property, file notice of forfeiture order proceeding against the property in the personal property registry.

(2) Subsection (1) does not apply to property in respect of which

(a) a notice of preliminary preservation order has been filed under subsection 7(1) and has not been discharged; or

(b) a notice of administrative forfeiture proceeding has been filed under subsection 24(3) and has not been discharged.

(3) When a proceeding seeking a forfeiture order is dismissed or discontinued, the Director shall apply as soon as possible to have the notice filed under subsection (1), 7(1) or 24(3), as the case may be, discharged.

16 (1) On application of the Director, the court may make one or more of the following interim orders respecting property that is the subject of a forfeiture order proceeding:

(a) an order restraining the disposition of the property;

(b) an order for the possession, delivery or safekeeping of the property;

(c) an order appointing a receiver or a receiver and manager for the property;

(d) 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;

(e) an order creating a lien in favour of the Province 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 under this subsection;

(f) any other order respecting the preservation, management or disposition of the property that the court considers just.

(2) Unless doing so would clearly not be in the interests of justice, the court shall make an order under subsection (1) if the court is satisfied that one or both of the following constitute a serious question to be tried:

(a) whether the property is proceeds of unlawful activity;

(b) whether the property is an instrument of unlawful activity.

(3) An order under subsection (1) may be made on motion without notice.

(4) Where an order under subsection (1) is made on motion without notice, the term of the order may not exceed 60 days.

(5) Subject to subsections (6) and (7), the court may grant one or more extensions to an order made under subsection (1), whether or not the order is made on motion without notice.

(6) Where an order under subsection (1) is made on a motion without notice, a motion to extend the order may be made only on notice to every party to the proceeding, unless the court is satisfied that the order ought to be extended without notice to a party because that party has been evading service or because there are other exceptional circumstances.

(7) Where one or more extensions are granted on a motion without notice, each extension may be made for a further period not exceeding 60 days after the date the extension is granted.

- (8) Where an order under clause (1)(e) creates a lien in favour of the Province on personal property,
- (a) the Province is deemed to be a secured party under the *Personal Property Security Act* and the owner of the property is deemed to be a debtor under that Act;
 - (b) the owner is deemed to have signed a security agreement stating that a security interest is taken in the property and the lien is deemed to be a perfected security interest in that property; and
 - (c) the *Personal Property Security Act* and the regulations under that Act apply to the lien, with necessary changes.

17 At the hearing of a forfeiture order proceeding, the Director shall disclose to the court

- (a) all prior registered interests in the property that is the subject of the proceeding; and
- (b) any other interest in the property that the Director has reason to believe exists.

18 (1) Subject to Section 19, and unless it would clearly not be in the interests of justice, the court shall make an order forfeiting property to the Province if it finds that the property is proceeds of unlawful activity or an instrument of unlawful activity.

(2) Where the court determines that forfeiture of the property or a portion of the property is clearly not in the interests of justice, the court may do any of the following:

- (a) refuse to issue a forfeiture order;
- (b) limit the application of the forfeiture order;
- (c) place conditions on the forfeiture order.

(3) Where a forfeiture order is made, the property is forfeited

- (a) if a notice of preliminary preservation order was filed against the property under subsection 7(1) and has not been discharged, as of the date that notice was filed;
- (b) if a notice of administrative forfeiture proceeding was filed under subsection 24(3) and has not been discharged, as of the date that notice was filed; or
- (c) in all other cases, as of the date the notice of forfeiture order proceeding was filed under subsection 15(1).

(4) The Province does not assume any covenants or other obligations under a mortgage or other security interest on forfeited property.

19 (1) Subject to subsection (3), where property is found to be proceeds of unlawful activity or an instrument of unlawful activity, the court shall make an order to protect, as much as reasonably possible, interests in the property held by persons entitled to such an order under Section 20 or 21.

(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 18(4), provide that the Province takes the property subject to the interest of a person; or
- (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.

(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.

20 (1) The following are entitled to a protection order in respect of property that is found to be proceeds of unlawful activity or an instrument of unlawful activity:

- (a) any of the following holders of a prior registered interest in the property:
 - (i) a provincial trust company or provincial loan company licensed under the *Trust and Loan Companies Act*,
 - (ii) a bank to which the *Bank Act* (Canada) applies,

- (iii) a credit union incorporated or registered under the *Credit Union Act*,
- (iv) the Nova Scotia Credit Union Deposit Insurance Corporation continued under the *Credit Union Act*,
- (v) the Atlantic Central continued under the *Credit Union Act*,
- (vi) an insurance company licensed under the *Insurance Act*,
- (vii) a retail association to which the *Cooperative Credit Associations Act* (Canada) applies,
- (viii) the Crown in right of Canada, the Crown in right of the Province, a municipality or a village commission,
- (ix) a member of a prescribed class of holders who are similar to the holders set out in subclauses (i) to (vii);
- (b) the holder of an interest in the property that is
 - (i) a prior registered interest that is referred to in Section 73 of the *Land Registration Act*,
 - (ii) not registered, but would be an interest referred to in subsection 73(1) of the *Land Registration Act* if it were registered, or
 - (iii) a prescribed prior registered interest.

(2) Where 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 referred to in subsection (1) is entitled to a protection order.

21 (1) Where 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 it before a notice was filed against the property under subsection 7(1), 15(1) or 24(3), and
 - (ii) did not, directly or indirectly, acquire the property or an interest in it as a result of unlawful activity; and
- (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, but 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 person's interest as a result of the unlawful activity,
 - (iii) acquired the property or an interest in it 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 it from a person described in subclause (i), (ii) or (iii).

(2) Where 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 the person

- (a) acquired the property or an interest in it before a notice was filed against the property under subsection 7(1), 15(1) or 24(3); and
- (b) did all that the person could reasonably have done in the circumstances to prevent the property from being used to engage in unlawful activity.

(3) For the purpose of clause (2)(b), a person can prevent property from being used to engage in unlawful activity by actions such as

- (a) promptly notifying appropriate law enforcement agencies whenever the person knows or ought to know 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 or ought to know has facilitated or is likely to facilitate the property being used to engage in unlawful activity.

22 A party referred to in subsection 12(4), other than a person referred to in subsection 20(1), is deemed to waive the person's right to property if the defendant or respondent fails, without reasonable excuse, to do any of the following:

- (a) to attend or be represented at a hearing or other proceeding respecting an application for a forfeiture order with respect to the property;
- (b) to attend for questioning in accordance with subsection 39(3) with respect to the property;
- (c) to attend for cross-examination on an affidavit in accordance with subsection 39(8);
- (d) to answer any question put to the defendant or respondent during questioning or cross-examination;
- (e) to provide, as directed by the court, or under an undertaking given by the defendant or respondent, any information or document, whether in writing or in electronic form.

ADMINISTRATIVE FORFEITURE

23 In Sections 24 to 35,

“deadline date” means the date specified in a notice of administrative forfeiture proceeding by which persons are required to file a notice of dispute;

“notice of dispute” means a notice of dispute submitted under Section 28.

24 (1) Property may be the subject of an administrative forfeiture proceeding only if

- (a) the property is cash or other personal property;
- (b) the property has been seized by a law enforcement agency and is being held by or on behalf of that agency;
- (c) the Director has reason to believe that the fair market value of the property does not exceed
 - (i) the prescribed amount, or
 - (ii) where no amount is prescribed, \$125,000;
- (d) all persons who have a prior registered interest in the property consent in writing to the property being the subject of administrative forfeiture proceedings; and
- (e) the property is not the subject of a forfeiture order proceeding.

(2) Subject to subsection (1), where the Director is satisfied that property is proceeds of unlawful activity or an instrument of unlawful activity, the Director may commence an administrative forfeiture proceeding against the property.

(3) In order to commence an administrative forfeiture proceeding, the Director shall

- (a) file a notice of administrative forfeiture proceeding against the property in the personal property registry; and
- (b) give notice of the administrative forfeiture proceeding in accordance with Sections 25 and 26.

25 (1) Subject to subsection (5), the Director shall give a written notice of administrative forfeiture proceeding against the property to

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

(2) A notice under this Section must include

- (a) a description of the property;
- (b) the date the property was seized and the place of seizure;
- (c) the basis on which the Director seeks forfeiture of the property;
- (d) a statement that the property may be forfeited to the Province;
- (e) a statement that a person who wishes to oppose forfeiture of the 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; and
- (f) the deadline 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 deemed to have been received by all persons required to be given notice under subsection (1), and
 - (ii) the date that public notice of administrative forfeiture proceedings was first given under Section 26.

(3) A notice under this Section must be given to a person by

- (a) personally serving the person with the notice; or
- (b) sending a copy of the notice by ordinary mail to the last known address of the person.

(4) A notice under this Section sent by ordinary mail in accordance with clause (3)(b) is deemed to have been received by the person to whom it was addressed on the fifth day after it was mailed.

(5) The Director is not required to give notice to a person referred to if, despite reasonable attempts, the Director is unable to obtain the person's address.

26 (1) The Director shall give public notice of an administrative forfeiture proceeding against the property by posting notice of the proceeding on a publicly accessible website maintained by or on behalf of the Province and may give notice in any other additional manner that the Director considers appropriate in the circumstances.

(2) A notice under this Section must include

- (a) a general description of the property;
- (b) the date the property was seized and the place of seizure;
- (c) the basis on which the Director seeks forfeiture of the property;
- (d) a statement that the property may be forfeited to the Province;
- (e) a statement that a person who wishes to oppose forfeiture of the property must submit a written notice of dispute to the Director at an address set out in the notice by a deadline specified in the notice; and
- (f) the deadline for submitting a notice of dispute with 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 deemed to have been received by all persons required to be given notice under Section 25, and
 - (ii) the date public notice of administrative forfeiture proceedings was first given under this Section.

27 (1) Subject to subsection (2), when a law enforcement agency receives a notice of administrative forfeiture proceeding from the Director, it shall maintain the 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 the administrative forfeiture proceeding against the property has been discontinued;
- (b) a notice of administrative forfeiture from the Director confirming that the property has been forfeited to the Province; or
- (c) a forfeiture order in relation to the property that forfeits the property to the Province or otherwise deals with the possession of the property.

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

28 (1) A person who claims to have an interest in the property may oppose forfeiture of the property by submitting a written notice of dispute to the Director on or before the deadline date.

(2) A notice of dispute may be submitted only in the prescribed manner.

(3) Where the Director receives a notice of dispute on or before the deadline date, the Director shall, within 60 days after the deadline date,

- (a) commence a forfeiture order proceeding against the property; or
- (b) discontinue administrative forfeiture proceedings against the property.

(4) The Director shall give notice of the Director's decision to each person who received notice of the administrative forfeiture proceedings under Section 25 and to each person who submitted a notice of dispute.

(5) Notice of the Director's decision must be given to a person by

- (a) personally serving the person with the notice; or
- (b) sending a copy of the notice by ordinary mail to the last known address of the person.

(6) Where the Director discontinues an administrative forfeiture proceeding under clause (3)(b), the Director shall apply as soon as possible to discharge the notice of administrative forfeiture proceeding filed against the property in the personal property registry.

29 (1) Notwithstanding subsection 28(3), where the Director receives a notice of dispute on or before the deadline date, the Director and the person submitting the notice of dispute may agree to a settlement respecting the forfeiture.

(2) For greater certainty, a settlement pursuant to subsection (1) may provide for

- (a) the full or partial forfeiture of property that is the subject of the proceeding;
- (b) payment of a monetary amount instead of the full or partial forfeiture of the property that is the subject of the proceeding; or
- (c) both full or partial forfeiture and a monetary amount.

(3) A person who agrees to a settlement with the Director shall file an amended notice of dispute with the Director, in the prescribed form.

(4) On receipt of an amended notice of dispute and subject to any further notice of dispute that the Director receives on or before the deadline date, Section 30 applies with respect to the property as agreed to under the settlement pursuant to subsection (1).

30 (1) Where the Director does not receive a notice of dispute by the deadline date, the property is forfeited to the Province.

(2) The property is forfeited

- (a) if a notice of preliminary preservation order was filed against the property under subsection 7(1) and has not been discharged, as of the date of that notice; or
- (b) in all other cases, as of the date the notice of administrative forfeiture proceeding was filed against the property under subsection 24(3).

(3) Upon forfeiture of the property under this Section, the Director shall prepare a notice of administrative forfeiture, in the prescribed form, that confirms that the property has been forfeited to the Province.

(4) The Director shall give a copy of the notice of administrative forfeiture to the law enforcement agency that seized the property.

(5) Upon receiving a notice of administrative forfeiture, a law enforcement agency shall deliver the property to the Director.

31 Where property forfeited to the Province is a financed vehicle, the Director shall discharge the registration of all specified security interests and other charges or interests in relation to the financed vehicle.

32 (1) Where the amount of the proceeds resulting from the disposition of a financed vehicle forfeited under subsection 30(1) exceeds the total of

(a) an amount equal to any costs incurred by the Director in relation to seizing, towing and storing the vehicle if the costs are incurred after the earlier of the date of any preliminary preservation order made in relation to the vehicle and the time of forfeiture under subsection 30(2);

(b) an amount equal to any costs incurred by the Director to dispose of the vehicle; and

(c) an administrative fee, if any, in the prescribed amount,

the Director must provide written notice to each specified interest holder.

(2) A notice required to be provided under subsection (1) must

(a) describe the financed vehicle;

(b) state that the financed vehicle or the whole or a portion of an interest in the financed vehicle was, under subsection 30(1), forfeited to the government for disposal by the Director;

(c) indicate

(i) the effective date of the forfeiture,

(ii) the amount of the proceeds resulting from the disposition of the financed vehicle,

(iii) each of the amounts referred to in clauses (1)(a) to (c), as applicable, and

(iv) the amount of the proceeds in excess of the total of the amounts referred to in subclause (iii); and

(d) contain any prescribed information.

(3) Subsection 24(3) and Section 25 apply in relation to a notice required to be provided under subsection (1).

33 (1) A specified interest holder may claim an interest in any proceeds in excess of the total of the amounts referred to in clauses 32(1)(a) to (c) by delivering a notice of interest to the Director.

(2) A notice of interest must be accompanied by a solemn declaration that

(a) attaches a copy of the agreement creating the applicable specified security interest in the financed vehicle;

(b) specifies any amount owing to the specified interest holder, in relation to the specified security interest in the financed vehicle, at the time of forfeiture of the vehicle or the whole or a portion of an interest in the vehicle under subsection 30(1);

(c) includes an accounting of every payment made and debt that arose in relation to the specified security interest in the financed vehicle;

(d) is made

(i) by the person or, in the case of a corporation, by an individual authorized by the corporation for the purpose of delivering a notice of interest under this Section, and

(ii) before a commissioner for taking affidavits for the Province; and

(e) is signed by the person making the solemn declaration and by the commissioner before whom it is made.

(3) A specified interest holder shall deliver the notice of interest to the Director within 180 days after the date on which the specified interest holder is deemed to have received notice given under subsection 32(1).

(4) For the purpose of this Section, a notice of interest that is delivered by mail is deemed to have been delivered on the fifth day after it is mailed.

34 (1) Subject to subsections (2) and (3), as soon as practicable after receiving a notice of interest under Section 33, the Director must pay to the specified interest holder out of the civil forfeiture account in accord-

ance with Section 69 an amount equal to the amount owing to the specified interest holder in relation to the applicable specified security interest in the financed vehicle at the time of forfeiture of the vehicle or the whole or a portion of an interest in the vehicle under subsection 30(1).

(2) For the purpose of subsection (1), the amount owing to the specified interest holder in relation to the financed vehicle does not include

- (a) an amount owing in relation to a prescribed charge or a prescribed fee arising under the terms of the security agreement; or
- (b) an amount equal to the portion of a prescribed charge or a prescribed fee arising under the terms of the security agreement that is greater than a prescribed amount.

(3) Where an amount is payable under subsection (1) to more than one specified interest holder, the Director must pay the amounts into court rather than to the specified interest holders.

35 (1) A person who claims to have an interest in property that was forfeited under subsection 24(1) but who failed to submit a notice of dispute on or before the deadline date may commence an action in court against the Province for losses arising from the forfeiture.

(2) In order to maintain an action commenced under this Section, the plaintiff must establish

- (a) the nature of the plaintiff's interest in the property;
- (b) that the plaintiff's failure to submit a notice of dispute in accordance with Section 28 was not wilful or deliberate; and
- (c) that the plaintiff commenced an action under this Section as soon as reasonably possible after learning of the forfeiture of the property.

(3) Subject to subsections (4) to (6), it is a defence to an action under this Section if the Province establishes that

- (a) the property was proceeds of unlawful activity; or
- (b) the property was an instrument of unlawful activity.

(4) A defence under clause (3)(a) fails if the plaintiff proves that

- (a) the plaintiff
 - (i) acquired the property or an interest in it before a notice of preliminary preservation order was filed against the property under subsection 7(1) or a notice of administrative forfeiture proceeding was filed against the property under subsection 24(3), and
 - (ii) did not, directly or indirectly, acquire the property or an interest in it as a result of unlawful activity; and
- (b) the plaintiff
 - (i) co-owns the property with another person whose unlawful activity led to the finding that the property is proceeds of unlawful activity, but 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 plaintiff's interest as a result of the unlawful activity,
 - (iii) acquired the property or an interest in it 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 it from a person described in subclause (i), (ii) or (iii).

(5) A defence under clause (3)(b) fails if the plaintiff proves that the plaintiff

- (a) acquired the property or an interest in it before a notice of preliminary preservation order was filed against the property under subsection 7(1) or a notice of administrative forfeiture proceeding was filed against the property under subsection 24(3); and

(b) having regard to subsection 21(3), did all that the plaintiff could reasonably have done in the circumstances to prevent the property from being used to engage in unlawful activity.

(6) A defence under either clause (3)(a) or (b) fails if the court is satisfied that forfeiture of the property was clearly not in the interests of justice.

(7) Where an action under this Section is successful, the court shall order the Province to pay to the plaintiff the lesser of

- (a) the value of the plaintiff's interest in the property at the time it was forfeited; and
- (b) the liquidated value of the property that was realized on the forfeiture or disposition of the property.

(8) The amount ordered to be paid under subsection (7) is to be paid from the Forfeiture Account.

(9) An action under this Section may not be commenced more than two years after the expiry of the deadline date for submitting a notice of dispute in relation to the property.

(10) Other than an amount ordered to be paid as the result of an action commenced under this Section, no other compensation is payable to any person by the Province, the Director, a law enforcement agency or any other person acting under the authority of this Act and no other proceedings may be commenced seeking compensation as the result of the administrative forfeiture of property.

FINANCED VEHICLES

36 (1) In Sections 37 and 38, "specified period" means the period

- (a) beginning on the date that the Director takes an action referred to in clause (2)(a) or (b), as applicable; and
- (b) ending on
 - (i) where the Director discontinues a forfeiture order proceeding or an administrative forfeiture proceeding, the date of the discontinuance,
 - (ii) the date on which a court makes or refuses to make a forfeiture order, or
 - (iii) the date on which property is forfeited to the Province under subsection 30(1).

(2) Section 37 applies if the Director, in relation to a financed vehicle or the whole or a portion of an interest in a financed vehicle,

- (a) registers notice of administrative forfeiture in the personal property registry under subsection 24(3); or
- (b) commences a forfeiture order proceeding.

37 (1) All rights or remedies of the owner of a financed vehicle under a security agreement or under Section 63 of the *Personal Property Security Act* are suspended during the specified period.

(2) During the specified period, the following legal proceedings in relation to a financed vehicle may be commenced but no further steps may be taken, and no orders may be made, in the proceedings other than discontinuing the proceedings:

- (a) a legal proceeding for possession of the vehicle;
- (b) a legal proceeding that may result in an order directly or indirectly reducing the amount of money that would otherwise result from the disposition of the vehicle or the whole or a portion of an interest in the vehicle on its forfeiture under this Act.

38 (1) Where a financed vehicle or the whole or a portion of an interest in a financed vehicle is forfeited to the Province under this Act, all rights or remedies of the owner of the financed vehicle under a security agreement or Section 63 of the *Personal Property Security Act* are extinguished

- (a) on and after the date of the forfeiture order; or
- (b) at the time of the forfeiture under subsection 30(1).

(2) Subsection (1) does not apply if the court orders otherwise under subsection 18(2) or 19(1).

(3) Where a financed vehicle or the whole or a portion of an interest in a financed vehicle is forfeited to the government under this Act, the following legal proceedings may not be brought or maintained on or after the date of the forfeiture order or the time of the forfeiture under subsection 30(1), as applicable:

- (a) a legal proceeding for possession of the vehicle;
- (b) a legal proceeding in relation to the forfeiture of the vehicle, the disposition of the vehicle by the Director or any proceeds from the disposition of the vehicle, including a legal proceeding for damages that is commenced or maintained by an uninvolved interest holder.

(4) Subsection (3) does not operate to prohibit any of the following:

- (a) a proceeding that is commenced or maintained under Section 35;
- (b) an application for judicial review of a decision of the Director under this Act;
- (c) a legal proceeding for damages brought by a party to a security agreement against another party to the agreement;
- (d) in a case where a party to a security agreement retains possession of a financed vehicle under a forfeiture order made in respect of the vehicle or the whole or a portion of an interest in the vehicle, a legal proceeding seeking possession of the vehicle brought by another party to the agreement.

CONDUCT OF PROCEEDINGS

39 (1) Where the Director commences a proceeding in the court and no statement of defence or notice of contest is filed by the defendant or defendants or respondent or respondents within the time limit set out in the *Nova Scotia Civil Procedure Rules*, the Director may

- (a) make a motion for default judgment 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) 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 or respondent.

(2) In considering an application without notice made pursuant to clause (1)(b), the court shall

- (a) for the purpose of subsection 18(1), consider that the facts set forth in the statement of claim or notice of application are proven to be true; and
- (b) where the court is satisfied that the property is proceeds of unlawful activity or an instrument of unlawful activity, make a forfeiture order and grant any other relief the court considers appropriate.

(3) Where a statement of defence or notice of contest is filed in accordance with the *Nova Scotia Civil Procedure Rules*, the defendant or respondent is compellable to attend for questioning and to answer all questions 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 questioning.

(5) Where a defendant or respondent is questioned in accordance with subsection (3), the transcript of the questioning 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 17 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 *Nova Scotia Civil Procedure Rules* with respect to expedited or simplified proceedings do not apply to applications made pursuant to this Act unless agreed to by the Director.

(8) The Director may, at the Director's discretion, cross-examine a person purporting to have signed an affidavit with respect to a proceeding commenced pursuant to this Act.

(9) The Director may apply to the court for an order fixing the date, time and place for cross-examination pursuant to subsection (8) if the Director and the person to be cross-examined fail to agree on a date, time and place.

40 The Director may refuse to disclose anything in an examination for discovery or an affidavit of documents, or at any step in a proceeding under this Act, including at the hearing, if, in the Director's opinion, the disclosure may

- (a) reveal the identity of a confidential informant, or otherwise jeopardize the safety of a person; or
- (b) negatively affect
 - (i) an ongoing investigation or operation conducted by a law enforcement agency, or
 - (ii) the utility of investigative or intelligence-gathering techniques used by a law enforcement agency.

41 (1) On motion, the court may order that any step in a proceeding under this Act be delayed in order to permit a prosecution of an offence to be completed, if the court is satisfied that

- (a) the order is necessary to protect the victim of the unlawful activity in question; and
- (b) the order is in the interests of justice.

(2) The court may impose any terms or conditions on an order made under this Section that the court considers appropriate.

42 Except as otherwise provided in this Act, a finding of fact or the discharge of a presumption in any proceeding under this Act is to be made on a balance of probabilities.

43 (1) In a proceeding under this Act, it is proof that a person committed an offence if the person was

- (a) convicted of the offence;
- (b) found guilty of the offence; or
- (c) found not criminally responsible for the offence on account of mental disorder,

and all appeal periods have expired.

(2) In a proceeding under this Act, evidence that a person was charged with and acquitted of an offence under the *Criminal Code* (Canada), or that such a charge was withdrawn or stayed, is not relevant in making a finding of fact.

44 The fact that forfeiture of property was not sought in any sentencing process does not prevent the Director from seeking forfeiture of the property under this Act.

45 The Director may, without leave and at any time until a trial or hearing date is set, amend the pleadings in a forfeiture order proceeding to address any matters arising as the result of an unexplained wealth order.

PRESUMPTIONS

46 (1) In a proceeding under this Act in which property is alleged to be proceeds of unlawful activity, where a person

- (a) participated in unlawful activity that resulted in, or is likely to have resulted in, the person receiving a financial benefit; and
- (b) subsequently
 - (i) acquired property that is the subject of the proceeding,
 - (ii) caused an increase in the value of property that is the subject of the proceeding,
 or
 - (iii) caused a decrease in a debt obligation secured against property that is the subject of the proceeding,

there is a rebuttable presumption that the property is proceeds of unlawful activity.

the court (2) In a proceeding under this Act in which property is alleged to be proceeds of unlawful activity,

(a) is not required to be satisfied that the property was acquired in connection with a specific unlawful act; or

(b) is not required to be satisfied that an increase in the value of the property or a decrease in a debt obligation secured against the property arose as the result of a specific unlawful act.

(3) In a proceeding under this Act in which property is alleged to be proceeds of unlawful activity, there is a rebuttable presumption that the property owned or possessed by any of the following 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 managers or has a significant ownership interest in it;

(c) a person to whom it was transferred for consideration that was significantly less than the fair market value at the time of transfer, if the transferor was a person or corporation described in clause (a) or (b).

(4) In a proceeding under this Act, there is a rebuttable presumption that a person is a member of a criminal organization if the person has been found guilty or convicted of a criminal organization offence as defined in section 2 of the *Criminal Code* (Canada).

(5) In a proceeding under this Act in which property is alleged to be proceeds of unlawful activity, there is a rebuttable presumption that the property is proceeds of unlawful activity if

(a) where the property is cash or negotiable instruments, the property is found in close proximity to a controlled substance as defined in the *Controlled Drugs and Substances Act* (Canada); or

(b) where the property is cash,

(i) the cash is bundled or packaged in a manner that is not consistent with standard banking practices,

(ii) the cash is mailed in a package that does not have any return address information or that has a false name or address in the return address information indicated on the package, or

(iii) the cash is sent for delivery by a shipping company or courier and the person who sends the package does not provide their name or address to the shipping company or courier or provides a false name or address.

47 In a proceeding under this Act in which property is alleged to be an instrument of unlawful activity, there is a rebuttable presumption that the property was used to engage in unlawful activity if a community safety order under the *Safer Communities and Neighbourhoods Act* has previously been made in respect of the property.

48 (1) In this Section, “specified sexual offence” means an offence contrary to

(a) any of the following provisions of the *Criminal Code* (Canada):

(i) section 151,

(ii) section 152,

(iii) section 153,

(iv) section 153.1,

(v) subsection 160(3),

(vi) section 163.1,

(vii) section 170,

(viii) section 171,

(ix) section 171.1,

(x) section 172.1,

(xi) section 172.2,

(xii) section 271,

- (xiii) subsection 286.1(2),
- (xiv) subsection 286.2(2),
- (xv) subsection 286.3(2); or
- (b) a prescribed provision of the *Criminal Code* (Canada).

(2) In an application for a forfeiture order, or for an interim order pursuant to Section 16, respecting property that is alleged to be an instrument of unlawful activity, evidence that a specified sexual offence occurred on or in the property is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity.

49 (1) In this Section,

“after-market hidden compartment” means a compartment in a conveyance that

- (a) is not part of the manufacturer’s design of, or equipment for, the conveyance; and
- (b) is incorporated into the structure or equipment of the conveyance after it has left the factory in which it was manufactured in a manner that makes the compartment hidden or difficult to detect,

but does not include a storage compartment or safe that is

- (c) designed by its manufacturer for after-market installation in a conveyance;
 - (d) sold to the general public by retail vendors of automotive or security equipment;
- and
- (e) attached to the conveyance as designed by the manufacturer and in accordance with the manufacturer’s instructions, if any;

“conveyance” includes

- (a) a motor vehicle or trailer as defined in Section 2 of the *Motor Vehicle Act*;
- (b) an off-highway vehicle as defined in the *Off-highway Vehicles Act*;
- (c) a vessel as defined in the *Canada Shipping Act, 2001* (Canada); and
- (d) an aircraft.

(2) In a proceeding under this Act in which a conveyance is alleged to be an instrument of unlawful activity, there is a rebuttable presumption that the conveyance is an instrument of unlawful activity if any of the following are found inside or attached to the conveyance:

- (a) a restricted firearm or a prohibited firearm, as defined in subsection 84(1) of the *Criminal Code* (Canada);
- (b) a controlled substance, as defined in the *Controlled Drugs and Substances Act* (Canada), in circumstances or in a quantity consistent with trafficking in the controlled substance;
- (c) an after-market hidden compartment;
- (d) equipment, devices or other things related to trafficking in a controlled substance, including prescribed equipment, devices or things.

(3) In a proceeding under this Act in which it is alleged that a conveyance is an instrument of unlawful activity, there is a rebuttable presumption that a conveyance is an instrument of unlawful activity if

- (a) the driver
 - (i) failed to safely stop the conveyance within a reasonable period of time after being signalled to stop by a peace officer, or
 - (ii) used the conveyance to flee from a peace officer; and
- (b) the driver’s use of the conveyance could have resulted in serious bodily harm to a person.

50 (1) In a proceeding under this Act in which it is alleged that a building is an instrument of unlawful activity, there is a rebuttable presumption that the building is an instrument of unlawful activity if a controlled substance is found in the building in circumstances or in a quantity consistent with trafficking in the controlled substance.

- (2) For greater certainty, this Section applies to a dwelling.

51 In a forfeiture order proceeding, there is a rebuttable presumption that property is proceeds of unlawful activity if the property is also the subject of an unexplained wealth order and the court determines that a respondent or responsible officer named in the unexplained wealth order

- (a) did not provide the required statement, records or documents by the deadline specified in the order;
- (b) knowingly made a false or misleading statement in a response required under the order;
- (c) knowingly provided a record or document in response to the order that is not authentic; or
- (d) failed to attend the examination required under the order or did not provide all of the information, records and documents requested at the examination.

DIRECTOR OF CIVIL FORFEITURE

- 52** (1) The Minister shall appoint a person to be the Director of Civil Forfeiture, who is responsible for

- (a) taking control of and managing or otherwise dealing with property that is subject to a management order obtained by the Attorney General under section 83.13, 462.331 or 490.81 of the *Criminal Code* (Canada);
- (b) administering and managing property that is the subject of a restraining order obtained by the Attorney General under section 462.33 or 490.8 of the *Criminal Code* (Canada) or an interim preservation order, protection order or other order made under this Act;
- (c) preserving, managing, selling or otherwise disposing of or dealing with property forfeited to the Crown in right of the Province under section 83.14, 199, 462.37, 462.38, 462.43, 490, 490.01, 490.1, 490.2 or 491.1 of the *Criminal Code* (Canada) or this Act;
- (d) taking control of, preserving, managing, selling or otherwise disposing of or dealing with any other property that is forfeited to the Crown in right of the Province under a prescribed provision of the *Criminal Code* (Canada) or this Act;
- (e) determining whether to commence proceedings under this Act;
- (f) commencing and conducting proceedings under this Act; and
- (g) requisitioning payments from the Forfeiture Account.

(2) The Director may preserve, manage, sell or otherwise dispose of or deal with any property described in clause (1)(c) or (d) that is not money in any manner that the Director considers proper.

- (3) Without limiting the generality of subsection (2), the Director may

- (a) take possession of and preserve or manage the property for the length of time and on the terms that the Director considers proper;
- (b) convert the property to money at the price and on the terms that the Director considers proper;
- (c) sell, assign, dispose of, use, give or transfer the property, or any interest in the property, at the price and upon the terms that the Director considers proper.

53 The Director may delegate any power or responsibility of the Director to any person employed by the Department of Justice.

COLLECTION AND DISCLOSURE OF INFORMATION

54 (1) In this Section, “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*.

(2) The Director is authorized to collect information, including personal information, from a public body or other source

- (a) to determine whether proceedings should be commenced under this Act;
- (b) to conduct proceedings under this Act; or
- (c) to enforce or comply with an order made under this Act.

(3) A public body

(a) is authorized to disclose information, including personal information, to the Director for a purpose set out in subsection (2); and

(b) shall provide the Director with information, including personal information, requested by the Director for a purpose set out in subsection (2).

(4) Notwithstanding subsection (3), a public body is not required to disclose to the Director information that is subject to solicitor-client privilege or protected by evidentiary rules regarding informer identity.

55 (1) In this Section, “financial institution” includes

(a) a bank;

(b) a credit union;

(c) the issuer of a credit card;

(d) an investment fund manager, a trust company and a loan company, as those terms are defined in the *Securities Act*; and

(e) a payday lender as defined in clause 18A(ab) of the *Consumer Protection Act*.

(2) The Director may give a written notice to a person to produce information described in subsection (3), as specified in the notice, if

(a) the Director has reason to suspect that

(i) the whole or a portion of an interest in property is proceeds of unlawful activity, or

(ii) property is an instrument of unlawful activity;

(b) the Director has reason to believe that the property is within the Province;

(c) the Director has reason to believe that

(i) the person is a financial institution in possession of the whole or the portion of the interest in property referred to in subclause (a)(i), or

(ii) the person has a registered interest in the property referred to in subclause (a)(i) or (ii); and

(d) the information is reasonably required by the Director in order to exercise the Director’s powers or perform the Director’s duties or functions under this Act.

(3) A notice under subsection (2) may request that the person provide to the Director,

(a) in the case of a person referred to in subclause (2)(c)(i), the following information in relation to any accounts in which the property referred to in subclause (2)(a)(i) is held by the person:

(i) any information necessary to identify the account, including the account number and other particulars,

(ii) the nature and type of the account,

(iii) whether the account is active,

(iv) the names and addresses of all account holders; and

(b) in the case of a person referred to in subclause (2)(c)(ii), information or particulars related to the interest of the person in the property referred to in subclause (2)(a)(i) or (ii).

(4) A person who has custody or control of information requested by a notice under this Section shall, within 30 days after receiving the notice, disclose that information to the Director.

(5) Where the Director provides a notice under subsection (2) to a person referred to in subclause (2)(c)(i), the Director shall, as soon as practicable after providing the notice,

(a) disclose to all account holders identified by the person that a notice was given under this Section;

- (b) commence a forfeiture order proceeding in relation to the whole or the portion of the interest in property; or
- (c) apply for an order under subsection 5(1) or a preliminary preservation order.

56 (1) Where reasonably required in order for the Director to exercise the Director's powers or perform the Director's duties or functions under this Act, the Director may require in a notice under subsection 55(2) that the person to whom the notice is given must not disclose to any person the existence of the notice.

(2) Where the Director has required in a notice under subsection 55(2) that a person must not disclose to any person the existence of the notice, the person must not disclose the existence of the notice to any person, other than a person in respect of which solicitor-client privilege exists, unless the Director advises otherwise in accordance with subsection (3).

(3) Where non-disclosure of a notice under subsection 55(2) is no longer reasonably required in order for the Director to exercise the Director's powers or perform the Director's duties or functions under this Act, the Director shall advise the person, as soon as practicable, that the non-disclosure requirement no longer applies.

(4) Any information provided to the Director under this Act is privileged in the same manner as if it were provided in a proceeding in a court pursuant to the implied undertaking rule.

57 The Director may disclose information obtained under Section 54 or 55

- (a) in order to exercise any power or duty under this Act;
- (b) for a purpose for which the information could be collected under subsection 54(2); or
- (c) to a person pursuant to an agreement entered into under Section 59.

58 The Director may disclose information obtained under this Act to a person employed by the Government of Canada, the government of another province of Canada, or the government of another country or state, who is assigned duties and responsibilities under an Act that allows for the civil forfeiture of proceeds of unlawful activity or instruments of unlawful activity, but only if

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

59 The Minister may enter into an agreement with a law enforcement agency to enable the agency to provide information to the Director that will assist the Director in exercising or performing the Director's powers and duties under this Act.

60 (1) The Director may request information from a prior registered interest holder about the prior registered interest the holder has in a specific property for a purpose set out in subsection 54(2).

(2) The prior registered interest holder shall comply with a request made under subsection (1) within the time period specified in the request.

DIRECTOR ENTITLED TO POSSESSION OF PROPERTY

61 Sections 62 to 66 apply to property if the Director has reason to suspect that

- (a) the whole or a portion of an interest in property, other than real property, is proceeds of unlawful activity; or
- (b) property, other than real property, is an instrument of unlawful activity

and the property is within the Province and is in the possession of a public body.

62 (1) The Director may, in accordance with this Section, publish notice of interest in relation to property on a publicly accessible website maintained by or on behalf of the Province.

- (2) Where the Director publishes notice of interest in relation to property, the Director shall
 - (a) subject to subsection (4), within 40 days after notice is published, give written notice to
 - (i) the person from whom the property was seized,
 - (ii) a person who is a registered owner of the property or the whole or the portion of the interest in the property, and
 - (iii) a prescribed person or a person in a prescribed class; and
 - (b) within 120 days after notice is published,
 - (i) commence a forfeiture order proceeding in relation to the property,
 - (ii) commence an administrative forfeiture proceeding in relation to the property, or
 - (iii) withdraw the notice of interest.
- (3) Notice under subsection (1) and clause (2)(a) must
 - (a) describe the subject property;
 - (b) state that under Section 64 the Director is lawfully entitled to possession of the subject property;
 - (c) indicate
 - (i) where the subject property was seized,
 - (ii) the date of the seizure, and
 - (iii) the basis for the seizure;
 - (d) include the name of the public body that seized the property; and
 - (e) contain any prescribed information.
- (4) Subsections 25(3), (4) and (5) apply in respect of a written notice required to be given under clause (2)(a).

63 (1) Without limiting subsection 15(1), where the Director publishes a notice of interest in relation to subject property that is serial numbered goods, the Director may register, in the prescribed manner, in the personal property registry notice setting out that under Section 65 the Director is lawfully entitled to possession of the property and this may affect the property or the whole or the portion of the interest in property referred to in the notice.

(2) Where the Director registers notice under subsection (1) in the personal property registry and subsequently withdraws the notice of interest referred to in that subsection, the Director shall cancel the notice registered in the personal property registry.

64 (1) On publication of notice of interest in relation to subject property, the Director is deemed to be lawfully entitled to possession of the property.

- (2) The Director's lawful entitlement to possession of subject property under subsection (1) ends if
 - (a) the Director withdraws the notice of interest in relation to the property;
 - (b) the Director fails to comply with clause 62(2)(a) or (b) within the periods referred to in those clauses; or
 - (c) where a court, by order,
 - (i) establishes a right of possession in the property with a person other than the Director or the public body, or
 - (ii) authorizes a person other than the Director or the public body to have or to take possession of the property.
- (3) In the circumstances described in clause (2)(b) or subclause (2)(c)(i) or (ii), the Director shall withdraw the notice of interest in relation to the property.

65 (1) A person who claims an interest in subject property may dispute a notice of interest by delivering a notice of dispute under this Section to the Director in accordance with this Section.

(2) A notice of dispute under this Section must

- (a) set out particulars of the nature of the person's interest or portion of an interest in the subject property, including the extent of the interest or the portion of the interest in the property; and
- (b) include
 - (i) the name of the person disputing the notice of interest under this Section,
 - (ii) the person's address and, where available, facsimile number and electronic mail address, and
 - (iii) prescribed information in relation to a prescribed method of delivery.

(3) A person wishing to dispute under this Section must deliver the notice of dispute to the Director within 14 days after the date on which the person is deemed to have received the notice given under clause 62(2)(a).

(4) For the purpose of this Section and Section 66, a notice of dispute that is delivered by mail is deemed to have been delivered on the fifth day after it was mailed.

66 Within 60 days of receiving a notice of dispute under Section 65, the Director shall

- (a) either
 - (i) commence a forfeiture order proceeding in relation to the property,
 - (ii) commence an administrative forfeiture proceeding in relation to the property, or
 - (iii) withdraw the notice of interest in relation to the subject property; and
- (b) give notice to the person who delivered the notice of dispute of the action taken under clause (a).

FORFEITURE ACCOUNT

67 (1) The Forfeiture Account established under the *Assets Management and Disposition Act* is continued.

(2) The Forfeiture Account is not part of the General Revenue Fund of the Province.

68 The Director shall pay into the Forfeiture Account

- (a) cash forfeited to the Province under the *Criminal Code* (Canada) or this Act;
- (b) proceeds resulting from the disposition of property or the whole or a portion of an interest in property forfeited to the Province under the *Criminal Code* (Canada) or this Act;
- (c) proceeds resulting from fines in lieu of forfeiture provided to the Province under the *Criminal Code* (Canada); and
- (d) money paid to the Province in settlement of an application or action under this Act.

69 Subject to this Act and the regulations, the Director may make payments out of the Forfeiture Account for one or more of the following purposes:

- (a) expenses and costs incurred in administering this Act;
- (b) support of an organization or program serving victims of crime;
- (c) targeted crime reduction and prevention initiatives;
- (d) promotion of safer communities through payments to programs operated by enforcement agencies intended to enhance the practices and training of the enforcement agencies.

70 The Director shall, within 30 days of the end of each fiscal year of the Province, present a report to the Minister concerning the amounts paid into the Forfeiture Account during the year under Section 68 and the amounts and purposes of payments out of the Forfeiture Account during the year under Section 69, and the Minister shall cause the report to be laid before the House of Assembly within 30 sitting days after the receipt thereof or, where the House of Assembly is not then sitting, on any of the first 30 days next thereafter that the House is sitting.

MISCELLANEOUS

71 Upon the request of the Director, a peace officer shall provide any assistance necessary to enforce an order made under this Act.

72 For the purpose of a proceeding under this Act, a person may not claim to have an interest in property if it would be an offence under the laws of Canada or the Province for the person to possess the property.

73 The *Escheats Act* does not apply to property forfeited under this Act.

74 Except in a proceeding under 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 purpose of this Act; or
- (b) to produce any document or other thing obtained by or on behalf of the Director for the purpose of this Act.

75 (1) No action or proceeding may be brought against the Director or any other person acting under the authority of this Act for anything done, or not done, or for any neglect

- (a) in the performance or intended performance of a duty under this Act; or
- (b) in the exercise or intended exercise of a power under this Act,

unless the person was acting in bad faith.

(2) Subsection (1) does not operate to prohibit an action commenced under Section 35.

76 (1) A person commits an offence who

- (a) in response to an unexplained wealth order, makes a statement that the person knows to be false or misleading;
- (b) in response to an unexplained wealth order, provides a record or document that the person knows is not authentic;
- (c) knowingly provides false or misleading information to the Director;
- (d) does not comply with a request made under Section 55 within the time period specified in the request;
- (e) contravenes subsection 56(2); or
- (f) does not comply with a request made under Section 60 within the time period specified in the request.

(2) Where a corporation commits an offence under this Act, a Director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of an offence.

(3) A person who commits an offence under this Act is liable on summary conviction

- (a) in the case of an individual, to a fine of not more than \$10,000, or to imprisonment for a term of not more than six months, or both; or
- (b) in the case of a corporation, to a fine of not more than \$25,000.

77 (1) The Governor in Council may make regulations

- (a) prescribing the form and content of a notice of preliminary preservation order proceeding;
- (b) prescribing the form and content of a notice of forfeiture order proceeding;
- (c) prescribing the form and content of a notice of administrative forfeiture proceeding to be filed in the personal property registry and the notice to affected parties;
- (d) prescribing classes of holders for the purpose of subclause 20(1)(a)(ix);

- (e) prescribing interests for the purpose of subclause 20(1)(b)(iii);
- (f) prescribing the maximum fair market value of property subject to administrative forfeiture;
- (g) prescribing the form and content of a notice of dispute;
- (h) prescribing provisions of the *Criminal Code* (Canada) for the purpose of clauses 48(1)(b) and 52(1)(d);
- (i) prescribing equipment, devices or things for the purpose of clause 49(2)(d);
- (j) defining “victims of crime” for the purpose of clause 69(b);
- (k) determining the criteria for eligibility for compensation for victims of crime;
- (l) respecting applications for payment out of the Forfeiture Account;
- (m) respecting payments out of the Forfeiture Account;
- (n) prescribing purposes for payments;
- (o) prescribing anything referred to in this Act as being prescribed;
- (p) defining any word or expression used but not defined in this Act;
- (q) respecting any matter or thing the Governor in Council deems necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

TRANSITIONAL

78 Where a proceeding was commenced under Chapter 27 of the Acts of 2007, the *Civil Forfeiture Act*, before the coming into force of this Act but was not concluded before the coming into force of this Act, the proceeding must be concluded as if this Act had not come into force.

CONSEQUENTIAL AMENDMENTS

79 Chapter 26 of the Acts of 2007, the *Assets Management and Disposition Act*, is repealed.

80 Chapter 27 of the Acts of 2007, the *Civil Forfeiture Act*, is repealed.

81 (1) Clause 46F(1)(a) of Chapter 81 of the Revised Statutes, 1989, the *Companies Act*, is amended by striking out “taxing authority or regulator” and substituting “the Director of Civil Forfeiture appointed under the *Civil Forfeiture Act*, a taxing authority or a regulator”.

(2) Section 46F of Chapter 81 is further amended by adding immediately after subsection (4) the following subsection:

(4A) The Director of Civil Forfeiture may make a request under subsection (2) only for a purpose related to the exercise or performance of the Director’s powers or duties under the *Civil Forfeiture Act*.

82 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.