

[Français](#)

Civil Remedies Act, 2001

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PART I PURPOSE

Purpose

- 1.** The purpose of this Act is to provide civil remedies that will assist in,
- (a) compensating persons who suffer pecuniary or non-pecuniary losses as a result of unlawful activities;
 - (b) preventing persons who engage in unlawful activities and others from keeping property that was acquired as a result of unlawful activities;
 - (c) preventing property, including vehicles as defined in Part III.1, from being used to engage in certain unlawful activities; and
 - (d) preventing injury to the public that may result from conspiracies to engage in unlawful activities. 2001, c. 28, s. 1; 2007, c. 13, s. 26.

PART II PROCEEDS OF UNLAWFUL ACTIVITY

Definitions

- 2.** In this Part,

“Director” means the Director of Asset Management – Civil appointed under section 15.1; (“directeur”)

“legitimate owner” means, with respect to property that is proceeds of unlawful activity, a person who did not, directly or indirectly, acquire the property as a result of unlawful activity committed by the person, and who,

- (a) was the rightful owner of the property before the unlawful activity occurred and was deprived of possession or control of the property by means of the unlawful activity,
- (b) acquired the property for fair 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
- (c) acquired the property from a person mentioned in clause (a) or (b); (“propriétaire légitime”)

“proceeds of unlawful activity” means property acquired, directly or indirectly, in whole or in part, as a result of unlawful activity, whether the property was acquired before or after this Act came into force, but does not include proceeds of a contract for recounting crime within the meaning of the *Prohibiting Profiting from Recounting Crimes Act, 2002*; (“produit d’activité illégale”)

“property” means real or personal property, and includes any interest in property; (“bien”)

“unlawful activity” means an act or omission that,

- (a) is an offence under an Act of Canada, Ontario or another province or territory of Canada, or
- (b) is an offence under an Act of a jurisdiction outside Canada, if a similar act or

omission would be an offence under an Act of Canada or Ontario if it were committed in Ontario,

whether the act or omission occurred before or after this Part came into force. (“activité illégale”) 2001, c. 28, s. 2; 2002, c. 2, s. 19 (3); 2005, c. 33, s. 20.

Forfeiture order

3. (1) In a proceeding commenced by the Attorney General, the Superior Court of Justice shall, subject to subsection (3) and except where it would clearly not be in the interests of justice, make an order forfeiting property that is in Ontario to the Crown in right of Ontario if the court finds that the property is proceeds of unlawful activity. 2001, c. 28, s. 3 (1).

Action or application

(2) The proceeding may be by action or application. 2001, c. 28, s. 3 (2).

Legitimate owners

(3) If the court finds that property is proceeds of unlawful activity and a party to the proceeding proves that he, she or it is a legitimate owner of the property, the court, except where it would clearly not be in the interests of justice, shall make such order as it considers necessary to protect the legitimate owner's interest in the property. 2001, c. 28, s. 3 (3).

Same

(4) Without limiting the generality of subsection (3), an order made under subsection (3) may,

- (a) sever or partition any interest in the property or require any interest in the property to be sold or otherwise disposed of, to protect the legitimate owner's interest in the property; or
- (b) provide that the Crown in right of Ontario takes the property subject to the interest of the legitimate owner. 2001, c. 28, s. 3 (4).

Limitation period

(5) A proceeding under this section shall not be commenced after the 15th anniversary of the date proceeds of unlawful activity were first acquired as a result of the unlawful activity that is alleged to have resulted in the acquisition of the property that is the subject of the proceeding. 2001, c. 28, s. 3 (5).

Interlocutory order for preservation, management or disposition of property

4. (1) On motion by the Attorney General in a proceeding or intended proceeding under section 3, the Superior Court of Justice may make any or all of the following interlocutory orders for the preservation, management or disposition of any property that is the subject of the proceeding:

1. An order restraining the disposition or encumbrance of the property or its use as collateral under the *Personal Property Security Act* or otherwise.
2. An order for the possession, delivery or safekeeping of the property.
3. An order appointing a receiver or receiver and manager for the property.
4. An order for the sale or other disposition of the property if it is perishable or of a rapidly depreciating nature.
- 4.1 An order that any proceeds of sale or other disposition of the property be paid into court pending the conclusion of a proceeding under section 3.
5. An order to sever or partition any interest in the property or to require any interest in

the property to be sold or otherwise disposed of, and for all or part of the proceeds of the severance, partition, sale or other disposition to be paid to the Crown in right of Ontario as compensation for its costs incurred in preserving, managing or disposing of the property and in enforcing or complying with any other order made under this subsection in respect of the property.

6. An order giving the Crown in right of Ontario a lien for an amount fixed by the court on the property or on other property specified in the order to secure performance of an obligation imposed by another order made under this subsection.
7. An order that notice of the proceeding or of any order made under this subsection be registered in a land registry office against the property or any other property specified in the order.
8. Any other order for the preservation, management or disposition of the property that the court considers just. 2005, c. 33, s. 21 (1); 2007, c. 13, s. 27 (1, 2).

Same

(2) Except where it would clearly not be in the interests of justice, the court shall make an order under subsection (1) if the court is satisfied that there are reasonable grounds to believe that the property is proceeds of unlawful activity. 2005, c. 33, s. 21 (1).

Motion made without notice

(3) An order under subsection (1) may be made on motion without notice for a period not exceeding 30 days. 2001, c. 28, s. 4 (3); 2007, c. 13, s. 27 (3).

Extension

(4) If 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 affected by the order, unless the court is satisfied that because a party has been evading service or because there are other exceptional circumstances, the order ought to be extended without notice to the party. 2001, c. 28, s. 4 (4).

Same

(5) An extension may be granted on a motion without notice for a further period not exceeding 30 days. 2001, c. 28, s. 4 (5); 2007, c. 13, s. 27 (4).

Liens on personal property

(6) If an order under paragraph 6 of subsection (1) gives the Crown a lien on personal property,

- (a) the *Personal Property Security Act* applies with necessary modifications to the lien, despite clause 4 (1) (a) of that Act;
- (b) the lien shall be deemed to be a security interest that has attached for the purposes of the *Personal Property Security Act*; and
- (c) the Attorney General may perfect the security interest referred to in clause (b) for the purposes of the *Personal Property Security Act* by the registration of a financing statement under that Act. 2001, c. 28, s. 4 (6); 2005, c. 33, s. 21 (2).

Assignment of duties to Director

(7) When the Attorney General requests it, the court making an order under subsection (1) shall assign any duties with respect to the property to the Director. 2005, c. 33, s. 21 (3).

On-going management of property

(8) If an order is made under subsection (1) assigning any duties in respect of the property to a person other than the Director, the person may do anything the court authorizes, either in that order or in an order made under subsection (9), for the on-going management or operation of the property before its final disposition, including,

- (a) complying with the terms of any order to which the property is subject, including an order to comply with environmental, industrial, labour or property standards or to pay taxes, utility charges or other charges;
 - (b) making improvements to the property to maintain its economic value; or
 - (c) pledging, hypothecating, mortgaging or otherwise using the property as security.
- 2005, c. 33, s. 21 (3).

Same

(9) On motion, on notice to all of the parties to the proceeding, by a person described in subsection (8), the court may make an order authorizing the person to take any action that the court considers just for the on-going management or operation of the property before its final disposition. 2005, c. 33, s. 21 (3).

Legal expenses

5. (1) Subject to the regulations made under this Act, a person who claims an interest in property that is subject to an interlocutory order made under section 4 may make a motion to the Superior Court of Justice for an order directing that reasonable legal expenses incurred by the person be paid out of the property. 2001, c. 28, s. 5 (1).

Restrictions on order

- (2) The court may make an order under subsection (1) only if it finds that,
- (a) the moving party has, in the motion,
 - (i) disclosed all interests in property held by the moving party, and
 - (ii) disclosed all other interests in property that, in the opinion of the court, other persons associated with the moving party should reasonably be expected to contribute to the payment of the legal expenses;
 - (b) the interests in property referred to in clause (a) that are not subject to the interlocutory order made under section 4 are not sufficient to cover the legal expenses sought in the motion. 2001, c. 28, s. 5 (2).

Special purpose account

6. (1) If property forfeited to the Crown in right of Ontario under this Part is money or is converted to money, the money shall be deposited in a separate, interest bearing account in the Consolidated Revenue Fund. 2001, c. 28, s. 6 (1).

Same

(2) For the purpose of the *Financial Administration Act*, money deposited under subsection (1) shall be deemed to be money paid to Ontario for a special purpose. 2001, c. 28, s. 6 (2).

Payments out of account for Crown's costs

(2.1) If money is deposited in an account under subsection (1), the Minister of Finance shall make payments out of the account, at the request of the Director and in the amounts determined by the Director under subsection (3.4), to compensate the Crown in right of Ontario for its costs incurred,

- (a) in conducting the proceeding under this Part with respect to the property;
 - (b) in determining whether the proceeding under this Part should be commenced;
 - (c) in preserving, managing or disposing of the property under this Part; and
 - (d) in enforcing or complying with orders made under this Part in respect of the property.
- 2005, c. 33, s. 22 (1).

Other payments out of account

[\(3\)](#) Subject to the regulations made under this Act and after making the payments, if any, out of the account under subsection (2.1), the Minister of Finance may make payments out of the account described in subsection (1) for the following purposes:

1. To compensate persons who suffered pecuniary or non-pecuniary losses, including losses recoverable under Part V of the *Family Law Act*, as a result of the unlawful activity.
2. To assist victims of unlawful activities or to prevent unlawful activities that result in victimization.
3. To compensate the Crown in right of Ontario for pecuniary losses suffered as a result of the unlawful activity, other than the costs described in subsection (2.1), but including costs incurred in remedying the effects of the unlawful activity.
4. To compensate a municipal corporation or a public body that belongs to a class prescribed by the regulations made under this Act for pecuniary losses that were suffered as a result of the unlawful activity and that are costs incurred in remedying the effects of the unlawful activity.
5. If, according to the criteria prescribed by the regulations made under this Act, the amount of money in the account is more than is required for the purposes referred to in paragraphs 1 to 4, such other purposes as are prescribed by the regulations. 2005, c. 33, s. 22 (2).

Director's election to give priority to persons who suffered loss

[\(3.1\)](#) The Director may elect not to request payment out of the account under subsection (2.1) if, in his or her opinion, all or substantially all of the money in the account is needed to compensate the persons who are entitled to compensation under paragraph 1 of subsection (3). 2005, c. 33, s. 22 (2).

Payment for Crown's costs after payment to persons who suffered loss

[\(3.2\)](#) If the Director elects not to request payment under subsection (2.1), the Minister of Finance shall, at the request of the Director and in the amounts determined by the Director under subsection (3.4), make payments to compensate the Crown in right of Ontario for its costs incurred as described in subsection (2.1) out of the account, after the payments are made to compensate the persons who are entitled to compensation under paragraph 1 of subsection (3). 2005, c. 33, s. 22 (2).

Payment for Crown's costs out of other accounts

[\(3.3\)](#) If the amount of money in the account is insufficient to satisfy the Crown's costs pursuant to a request made by the Director under subsection (2.1) or (3.2), the Minister of Finance shall make payments to compensate the Crown in right of Ontario for its unsatisfied costs out of another account into which money is deposited under subsection (1) as a result of another proceeding, after payments have been made out of that account to compensate the persons who are entitled to compensation out of that account under paragraph 1 of subsection

(3) and to compensate the Crown for its costs incurred in respect of that account. 2005, c. 33, s. 22 (2).

Determination of Crown's costs

(3.4) The amount of the Crown's costs under subsection (2.1) or (3.2) shall be determined by the Director on any basis, or combination of them, that he or she considers appropriate in the circumstances, including,

- (a) a flat rate for every forfeiture;
- (b) a flat rate for every step taken;
- (c) an hourly rate;
- (d) the actual costs; or
- (e) a percentage of the value of the property forfeited. 2005, c. 33, s. 22 (2).

Related unlawful activities

(4) If money is required to be deposited under subsection (1) in respect of two or more unlawful activities and the Minister of Finance is of the opinion that the unlawful activities are related, the money may be deposited into a single account and, for the purpose of payments out of the account, a reference in subsection (3) to "the unlawful activity" shall be deemed to be a reference to any of the unlawful activities. 2001, c. 28, s. 6 (4).

PART III INSTRUMENTS OF UNLAWFUL ACTIVITY

Definitions

7. (1) In this Part,

"Director" means the Director of Asset Management – Civil appointed under section 15.1; ("directeur")

"instrument of unlawful activity" means property that is likely to be used to engage in unlawful activity that, in turn, would be likely to or is intended to result in the acquisition of other property or in serious bodily harm to any person, and includes any property that is realized from the sale or other disposition of such property; ("instrument d'activité illégale")

"property" means real or personal property, and includes any interest in property; ("bien")

"responsible owner" means, with respect to property that is an instrument of unlawful activity, a person with an interest in the property who has done all that can reasonably be done to prevent the property from being used to engage in unlawful activity, including,

- (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, and
- (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; ("propriétaire responsable")

"unlawful activity" means an act or omission that,

- (a) is an offence under an Act of Canada, Ontario or another province or territory of Canada, or
- (b) is an offence under an Act of a jurisdiction outside Canada, if a similar act or

omission would be an offence under an Act of Canada or Ontario if it were committed in Ontario,

whether the act or omission occurred before or after this Part came into force. (“activité illégale”) 2001, c. 28, s. 7 (1); 2005, c. 33, s. 23; 2007, c. 13, s. 28 (1).

Instruments of unlawful activity

(2) For the purpose of the definition of “instrument of unlawful activity” in subsection (1), proof that property was used to engage in unlawful activity that, in turn, resulted in the acquisition of other property or in serious bodily harm to any person is proof, in the absence of evidence to the contrary, that the property is likely to be used to engage in unlawful activity that, in turn, would be likely to result in the acquisition of other property or in serious bodily harm to any person. 2001, c. 28, s. 7 (2).

Same

(3) Where property that is the subject of a proceeding or intended proceeding under section 8 was modified or sold or otherwise disposed of before an order is made under subsection 8 (1), the determination of whether the modified property or the property that was realized from the sale or other disposition of the property is an “instrument of unlawful activity” shall be based on whether the property was likely to be used to engage in unlawful activity before it was modified or sold or otherwise disposed of. 2007, c. 13, s. 28 (2).

Forfeiture order

8. (1) In a proceeding commenced by the Attorney General, the Superior Court of Justice shall, subject to subsection (3) and except where it would clearly not be in the interests of justice, make an order forfeiting property that is in Ontario to the Crown in right of Ontario if the court finds that the property is an instrument of unlawful activity. 2001, c. 28, s. 8 (1).

Action or application

(2) The proceeding may be by action or application. 2001, c. 28, s. 8 (2).

Responsible owners

(3) If the court finds that property is an instrument of unlawful activity and a party to the proceeding proves that he, she or it is a responsible owner of the property, the court, except where it would clearly not be in the interests of justice, shall make such order as it considers necessary to protect the responsible owner’s interest in the property. 2001, c. 28, s. 8 (3).

Property sold, disposed of

(3.1) Where property that is the subject of a proceeding under this section is modified or sold or otherwise disposed of after the proceeding has been commenced but before an order is made under subsection (1), the proceeding shall be continued in respect of the modified property or property that is realized from the sale or other disposition and, if the original property would have been found to be an instrument of unlawful activity, the court shall make a finding that the modified or realized property is also an instrument of unlawful activity. 2007, c. 13, s. 29.

Protecting responsible owner’s interest

(4) Without limiting the generality of subsection (3), an order made under subsection (3) may,

- (a) sever or partition any interest in the property or require any interest in the property to be sold or otherwise disposed of, to protect the responsible owner’s interest in the property; or

- (b) provide that the Crown in right of Ontario takes the property subject to the interest of

the responsible owner. 2001, c. 28, s. 8 (4).

No limitation period

(5) There is no limitation period for a proceeding under this section. 2001, c. 28, s. 8 (5).

Interlocutory order for preservation, management or disposition of property

9. (1) On motion by the Attorney General in a proceeding or intended proceeding under section 8, the Superior Court of Justice may make any or all of the following interlocutory orders for the preservation, management or disposition of any property that is the subject of the proceeding:

1. An order restraining the disposition or encumbrance of the property or its use as collateral under the *Personal Property Security Act* or otherwise.
2. An order for the possession, delivery or safekeeping of the property.
3. An order appointing a receiver or receiver and manager for the property.
4. An order for the sale or other disposition of the property if it is perishable or of a rapidly depreciating nature.
- 4.1 An order that any proceeds of sale or other disposition of the property be paid into court pending the conclusion of a proceeding under section 8.
5. An order to sever or partition any interest in the property or to require any interest in the property to be sold or otherwise disposed of, and for all or part of the proceeds of the severance, partition, sale or other disposition to be paid to the Crown in right of Ontario as compensation for its costs incurred in preserving, managing or disposing of the property and in enforcing or complying with any other order made under this subsection in respect of the property.
6. An order giving the Crown in right of Ontario a lien for an amount fixed by the court on the property or on other property specified in the order to secure performance of an obligation imposed by another order made under this subsection.
7. An order that notice of the proceeding or of any order made under this subsection be registered in a land registry office against the property or any other property specified in the order.
8. Any other order for the preservation, management or disposition of the property that the court considers just. 2005, c. 33, s. 24 (1); 2007, c. 13, s. 30 (1, 2).

Same

(2) Except where it would clearly not be in the interests of justice, the court shall make an order under subsection (1) if the court is satisfied that there are reasonable grounds to believe that the property is an instrument of unlawful activity. 2005, c. 33, s. 24 (1).

Property sold, disposed of

(2.1) Where property that is the subject of a proceeding or intended proceeding under section 8 is modified or sold or otherwise disposed of, a motion under this section may be continued or brought in respect of the modified property or property that is realized from the sale or other disposition and, if the court would have made an order under subsection (1) in respect of the original property, the court shall make an order under subsection (1) in respect of the modified or realized property. 2007, c. 13, s. 30 (3).

Motion made without notice

(3) An order under subsection (1) may be made on motion without notice for a period not

exceeding 30 days. 2001, c. 28, s. 9 (3); 2007, c. 13, s. 30 (4).

Extension

(4) If 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 affected by the order, unless the court is satisfied that because a party has been evading service or because there are other exceptional circumstances, the order ought to be extended without notice to the party. 2001, c. 28, s. 9 (4).

Same

(5) An extension may be granted on a motion without notice for a further period not exceeding 30 days. 2001, c. 28, s. 9 (5); 2007, c. 13, s. 30 (5).

Liens on personal property

(6) If an order under paragraph 6 of subsection (1) gives the Crown a lien on personal property,

- (a) the *Personal Property Security Act* applies with necessary modifications to the lien, despite clause 4 (1) (a) of that Act;
- (b) the lien shall be deemed to be a security interest that has attached for the purposes of the *Personal Property Security Act*; and
- (c) the Attorney General may perfect the security interest referred to in clause (b) for the purposes of the *Personal Property Security Act* by the registration of a financing statement under that Act. 2001, c. 28, s. 9 (6); 2005, c. 33, s. 24 (2).

Assignment of duties to Director

(7) When the Attorney General requests it, the court making an order under subsection (1) shall assign any duties in respect of the property to the Director. 2005, c. 33, s. 24 (3).

On-going management of property

(8) If an order is made under subsection (1) assigning any duties in respect of the property to a person other than the Director, the person may do anything the court authorizes, either in that order or in order made under subsection (9), for the on-going management or operation of the property before its final disposition, including,

- (a) complying with the terms of any order to which the property is subject, including an order to comply with environmental, industrial, labour or property standards or to pay taxes, utility charges or other charges;
- (b) making improvements to the property to maintain its economic value; or
- (c) pledging, hypothecating, mortgaging or otherwise using the property as security. 2005, c. 33, s. 24 (3).

Same

(9) On motion, on notice to all of the parties to the proceeding, by a person described in subsection (8), the court may make an order authorizing the person to take any action that the court considers just for the on-going management or operation of the property before its final disposition. 2005, c. 33, s. 24 (3).

Legal expenses

10. (1) Subject to the regulations made under this Act, a person who claims an interest in property that is subject to an interlocutory order made under section 9 may make a motion to the Superior Court of Justice for an order directing that reasonable legal expenses incurred by the

person be paid out of the property. 2001, c. 28, s. 10 (1).

Restrictions on order

- (2) The court may make an order under subsection (1) only if it finds that,
- (a) the moving party has, in the motion,
 - (i) disclosed all interests in property held by the moving party, and
 - (ii) disclosed all other interests in property that, in the opinion of the court, other persons associated with the moving party should reasonably be expected to contribute to the payment of the legal expenses;
 - (b) the interests in property referred to in clause (a) that are not subject to the interlocutory order made under section 9 are not sufficient to cover the legal expenses sought in the motion. 2001, c. 28, s. 10 (2).

Special purpose account

11. (1) If property forfeited to the Crown in right of Ontario under this Part is money or is converted to money, the money shall be deposited in a separate, interest bearing account in the Consolidated Revenue Fund. 2001, c. 28, s. 11 (1).

Same

(2) For the purpose of the *Financial Administration Act*, money deposited under subsection (1) shall be deemed to be money paid to Ontario for a special purpose. 2001, c. 28, s. 11 (2).

Payments out of account for Crown's costs

(2.1) If money is deposited in an account under subsection (1), the Minister of Finance shall make payments out of the account, at the request of the Director and in the amounts determined by the Director under subsection (3.4), to compensate the Crown in right of Ontario for its costs incurred,

- (a) in conducting the proceeding under this Part;
- (b) in determining whether the proceeding under this Part should be commenced;
- (c) in preserving, managing or disposing of the property under this Part; and
- (d) in enforcing or complying with orders made under this Part in respect of the property. 2005, c. 33, s. 25 (1).

Other payments out of account

(3) Subject to the regulations made under this Act and after making the payments, if any, out of the account under subsection (2.1), the Minister of Finance may make payments out of the account described in subsection (1) for the following purposes:

1. To compensate persons who suffered pecuniary or non-pecuniary losses, including losses recoverable under Part V of the *Family Law Act*, as a result of unlawful activity that the property was used to engage in.
2. To assist victims of unlawful activities or to prevent unlawful activities that result in victimization.
3. To compensate the Crown in right of Ontario for costs incurred in respect of any proceeding under this Part that relates to the property, other than the costs described in subsection (2.1), and for pecuniary losses suffered as a result of unlawful activity that the property was used to engage in, including costs incurred in remedying the

effects of the unlawful activity.

4. To compensate a municipal corporation or a public body that belongs to a class prescribed by the regulations made under this Act for pecuniary losses that were suffered as a result of unlawful activity that the property was used to engage in and that are costs incurred in remedying the effects of the unlawful activity.
5. If, according to the criteria prescribed by the regulations made under this Act, the amount of money in the account is more than is required for the purposes referred to in paragraphs 1 to 4, such other purposes as are prescribed by the regulations. 2005, c. 33, s. 25 (2).

Director's election to give priority to persons who suffered loss

[\(3.1\)](#) The Director may elect not to request payment out of the account under subsection (2.1) if, in his or her opinion, all or substantially all of the money in the account is needed to compensate the persons who are entitled to compensation under paragraph 1 of subsection (3). 2005, c. 33, s. 25 (2).

Payment for Crown's costs after payment to persons who suffered loss

[\(3.2\)](#) If the Director elects not to request payment under subsection (2.1), the Minister of Finance shall, at the request of the Director and in the amounts determined by the Director under subsection (3.4), make payments to compensate the Crown in right of Ontario for its costs incurred as described in subsection (2.1) out of the account, after the payments are made to compensate the persons who are entitled to compensation under paragraph 1 of subsection (3). 2005, c. 33, s. 25 (2).

Payment for Crown's costs out of other accounts

[\(3.3\)](#) If the amount of money in the account is insufficient to satisfy the Crown's costs pursuant to a request made by the Director under subsection (2.1) or (3.2), the Minister of Finance shall make payments to compensate the Crown in right of Ontario for its unsatisfied costs out of another account into which money is deposited under subsection (1) as a result of another proceeding, after payments have been made out of that account to compensate the persons who are entitled to compensation out of that account under paragraph 1 of subsection (3) and to compensate the Crown for its costs incurred in respect of that account. 2005, c. 33, s. 25 (2).

Determination of Crown's costs

[\(3.4\)](#) The amount of the Crown's costs under subsection (2.1) or (3.2) shall be determined by the Director on any basis, or combination of them, that he or she considers appropriate in the circumstances, including,

- (a) a flat rate for every forfeiture;
- (b) a flat rate for every step taken;
- (c) an hourly rate;
- (d) the actual costs; or
- (e) a percentage of the value of the property forfeited. 2005, c. 33, s. 25 (2).

Related instruments of unlawful activity

[\(4\)](#) If money is required to be deposited under subsection (1) in respect of two or more instruments of unlawful activity and the Minister of Finance is of the opinion that the instruments of unlawful activity are related, the money may be deposited into a single account and, for the purpose of payments out of the account, a reference in subsection (2.1), (3) or (3.4)

to “the property” shall be deemed to be a reference to any of the instruments of unlawful activity. 2001, c. 28, s. 11 (4); 2005, c. 33, s. 25 (3); 2007, c. 13, s. 31.

PART III.1

UNLAWFUL ACTIVITIES RELATED TO ROAD SAFETY

Definitions

11.1 In this Part,

“approved ignition interlock device” has the same meaning as in section 41.2 of the *Highway Traffic Act*; (“dispositif de verrouillage du système de démarrage approuvé”)

“Director” means the Director of Asset Management – Civil appointed under section 15.1; (“directeur”)

“owner”, with respect to a vehicle, means,

- (a) each person whose name appears on the vehicle portion and the plate portion of the permit, or
- (b) if the vehicle is registered in a jurisdiction outside Ontario, each person whose name appears on the certificate of title or registration in that jurisdiction; (“propriétaire”)

“responsible vehicle owner” means an owner of a vehicle, or other person who has an interest in a vehicle, who has done all that can reasonably be done to prevent the vehicle from being used to engage in vehicular unlawful activity, including,

- (a) promptly notifying appropriate law enforcement agencies whenever the person knows or ought to know that the vehicle has been, is being or is likely to be used to engage in vehicular unlawful activity,
- (b) refusing or withdrawing any permission that the person has authority to give if the person knows or ought to know that such permission has facilitated, is facilitating or is likely to facilitate the vehicle being used to engage in vehicular unlawful activity, and
- (c) denying access to the vehicle or to the keys to the vehicle if the person knows or ought to know that the other person is using, has used or is likely to use the vehicle to engage in vehicular unlawful activity,

and does not include an owner of the vehicle or other person who has an interest in the vehicle who has given permission to another person to operate the vehicle if the owner or other person with an interest knows or ought to know that,

- (d) the other person’s driver’s licence is suspended as a result of vehicular unlawful activity, or
- (e) the vehicle is likely to be used to engage in vehicular unlawful activity; (“propriétaire de véhicule responsable”)

“vehicle” means,

- (a) a vehicle within the meaning of the *Highway Traffic Act*, or
- (b) a motorized snow vehicle within the meaning of the *Motorized Snow Vehicles Act*; (“véhicule”)

“vehicular unlawful activity” means an act or omission that,

- (a) is an offence under section 253, 254 or 255 of the *Criminal Code* (Canada) or

another provision of the *Criminal Code* (Canada) that is prescribed by the regulations made under this Act,

- (b) is an offence under subsection 53 (1.1) of the *Highway Traffic Act* or another provision of the *Highway Traffic Act* that is prescribed by the regulations made under this Act, subject to the conditions or in the circumstances prescribed by the regulation, or
- (c) is an offence under an Act of a jurisdiction outside Ontario, if a similar act or omission would be an offence described in clause (a) or (b) if it were committed in Ontario,

whether the act or omission occurred before or after this Part came into force. (“activité illégale liée à l’utilisation d’un véhicule”) 2007, c. 13, s. 32.

Forfeiture order

11.2 (1) In a proceeding commenced by the Attorney General, the Superior Court of Justice shall, subject to subsection (4) and except where it would clearly not be in the interests of justice, make an order forfeiting a vehicle to the Crown in right of Ontario if the court finds that the vehicle,

- (a) was or is likely to be used to engage in vehicular unlawful activity; and
- (b) is owned by or is in the care, control or possession of a person whose driver’s licence has been suspended under the *Highway Traffic Act* for vehicular unlawful activity two or more times in the preceding 10 years. 2007, c. 13, s. 32.

Action or application

(2) The proceeding may be by action or application. 2007, c. 13, s. 32.

Vehicle sold, disposed of

(3) Where a vehicle that is the subject of a proceeding under this section is sold or otherwise disposed of after the proceeding has been commenced but before an order is made under subsection (1), the proceeding shall be continued in respect of any other vehicle or vehicles owned or in the care, control or possession of a person who, before the sale or other disposition of the original vehicle, owned or had the care, control or possession of the original vehicle and, if the original vehicle would have been found to be subject to an order under subsection (1), the court shall make an order against the other vehicle or vehicles under subsection (1). 2007, c. 13, s. 32.

Responsible vehicle owners

(4) If the court would make an order against a vehicle under subsection (1) and a party to the proceeding proves that he, she or it is a responsible vehicle owner of the vehicle, the court, except where it would clearly not be in the interests of justice, shall make such order as it considers necessary to protect the responsible vehicle owner’s interest in the vehicle. 2007, c. 13, s. 32.

Same

(5) Without limiting the generality of subsection (4), an order made under subsection (4) may,

- (a) sever any interest in the vehicle or require any interest in the vehicle to be sold or otherwise disposed of, to protect a responsible vehicle owner’s interest in the vehicle; or
- (b) provide that the Crown in right of Ontario takes the vehicle subject to the interest of a

responsible vehicle owner. 2007, c. 13, s. 32.

No limitation period

(6) There is no limitation period for a proceeding under this section. 2007, c. 13, s. 32.

Interlocutory order for preservation, impounding, modification or disposition of vehicle

11.3 (1) On motion by the Attorney General in a proceeding or intended proceeding under section 11.2, the Superior Court of Justice may make any or all of the following interlocutory orders for the preservation, impounding, modification or disposition of any vehicle that is the subject of the proceeding:

1. An order restraining the disposition or encumbrance of the vehicle or its use as collateral under the *Personal Property Security Act* or otherwise.
2. An order for the vehicle to be impounded by the Director and for the vehicle to be released only on a further order of the court.
3. An order for the possession, delivery or safekeeping of the vehicle.
4. An order requiring that the vehicle be equipped with an approved ignition interlock device.
5. An order for the sale or other disposition of the vehicle.
6. An order that any proceeds of sale or other disposition of the vehicle be paid into court pending the conclusion of the proceeding under section 11.2.
7. An order to sever any interest in the vehicle or to require any interest in the vehicle to be sold or otherwise disposed of.
8. An order giving the Crown in right of Ontario a lien for an amount fixed by the court on the vehicle to secure performance of an obligation imposed by another order made under this subsection.
9. An order requiring the owner or owners to agree, as a condition of the vehicle not being impounded or as a condition of the release of the vehicle from impoundment, that the vehicle shall not be operated by a person whose driver's licence is suspended as a result of vehicular unlawful activity or has been suspended two or more times in the preceding 10 years as a result of vehicular unlawful activity.
10. An order for the vehicle to be impounded by the Director if an owner of the vehicle fails to comply with an order made under paragraph 4, 5, 6 or 9 or an order made under paragraph 11 relating to the operation of the vehicle, and for the vehicle to be released only on a further order of the court.
11. Any other order relating to the vehicle that the court considers just. 2007, c. 13, s. 32.

Same

(2) The court shall make an order under subsection (1) if the court is satisfied that there are reasonable grounds to believe that the vehicle is owned by or is in the care, control or possession of a person whose driver's licence has been suspended under the *Highway Traffic Act* for vehicular unlawful activity two or more times in the preceding 10 years and that the vehicle,

- (a) is impounded under the *Highway Traffic Act* as a result of vehicular unlawful activity;
- or

(b) was or is likely to be used to engage in vehicular unlawful activity. 2007, c. 13, s. 32.

Vehicle sold, disposed of

(3) Where a vehicle that is the subject of a proceeding or intended proceeding under section 11.2 is sold or otherwise disposed of, a motion under this section may be continued or brought in respect of any other vehicle or vehicles owned or in the care, control or possession of a person who owned or had care, control or possession of the original vehicle and, if the court would have made an order under subsection (1) in respect of the original vehicle, the court shall make an order under subsection (1) in respect of such other vehicle or vehicles. 2007, c. 13, s. 32.

Release of impounded vehicle

- (4) A vehicle ordered released under subsection (1) shall not be released,
- (a) if it is still subject to impoundment under the *Highway Traffic Act*;
 - (b) if all of the costs incurred by the Crown relating to a proceeding or intended proceeding under this Part with respect to the preservation, impounding, modification or storage of the vehicle have not been paid; or
 - (c) if the impound costs have not been paid to the operator of the impound facility. 2007, c. 13, s. 32.

Motion made without notice

(5) An order under subsection (1) may be made on motion without notice for a period not exceeding 30 days. 2007, c. 13, s. 32.

Extension

(6) If 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 affected by the order unless the court is satisfied that because a party has been evading service or because there are other exceptional circumstances, the order ought to be extended without notice to the party. 2007, c. 13, s. 32.

Same

(7) An extension may be granted on a motion without notice for a further period not exceeding 30 days. 2007, c. 13, s. 32.

Liens on vehicles

- (8) If an order under paragraph 8 of subsection (1) gives the Crown a lien on a vehicle,
- (a) the *Personal Property Security Act* applies with necessary modifications to the lien, despite clause 4 (1) (a) of that Act;
 - (b) the lien shall be deemed to be a security interest that has attached for the purposes of the *Personal Property Security Act*; and
 - (c) the Attorney General may perfect the security interest referred to in clause (b) for the purposes of the *Personal Property Security Act* by the registration of a financing statement under that Act. 2007, c. 13, s. 32.

Costs

(9) The costs associated with the forfeiture, preservation, impounding, modification, storage or disposition of a vehicle under this Part, including the costs of equipping the vehicle with an approved ignition interlock device, incurred by the Crown or any person are a debt due by the owner of the vehicle at the time the order was made to the Crown or person who incurred the

costs, and the debt may be recovered in any court of competent jurisdiction. 2007, c. 13, s. 32.

Assignment of duties to Director

(10) When the Attorney General requests it, the court making an order under subsection (1) shall assign any duties in respect of the vehicle to the Director. 2007, c. 13, s. 32.

Special purpose account

11.4 (1) If a vehicle forfeited to the Crown in right of Ontario under this Part is converted to money, the money shall be deposited in a separate, interest bearing account in the Consolidated Revenue Fund. 2007, c. 13, s. 32.

Same

(2) For the purpose of the *Financial Administration Act*, money deposited under subsection (1) shall be deemed to be money paid to Ontario for a special purpose. 2007, c. 13, s. 32.

Payments out of account for Crown's costs

(3) If money is deposited in an account under subsection (1), the Minister of Finance shall make payments out of the account, at the request of the Director and in the amounts determined by the Director under subsection (8), to compensate the Crown in right of Ontario for its costs incurred,

- (a) in conducting the proceeding under this Part;
- (b) in determining whether the proceeding under this Part should be commenced;
- (c) in preserving, impounding, modifying, storing, forfeiting or disposing of the vehicle under this Part; and
- (d) in enforcing or complying with orders made under this Part in respect of the vehicle. 2007, c. 13, s. 32.

Other payments out of account

(4) Subject to the regulations made under this Act and after making the payments, if any, out of the account under subsection (3), the Minister of Finance may make payments out of the account described in subsection (1) for the following purposes:

1. To compensate persons who suffered pecuniary or non-pecuniary losses, including losses recoverable under Part V of the *Family Law Act*, as a result of the vehicular unlawful activity that gave rise to the forfeiture.
2. To assist victims of vehicular unlawful activities or to prevent vehicular unlawful activities that result in victimization.
3. To compensate the Crown in right of Ontario for costs incurred in respect of any proceeding under this Part other than the costs described in subsection (3), and for pecuniary losses suffered as a result of the vehicular unlawful activity that gave rise to the forfeiture, including costs incurred in remedying the effects of that vehicular unlawful activity.
4. To compensate a municipal corporation or a public body that belongs to a class prescribed by the regulations made under this Act for pecuniary losses that were suffered as a result of the vehicular unlawful activity that gave rise to the forfeiture and that are costs incurred in remedying the effects of that vehicular unlawful activity.
5. If, according to the criteria prescribed by the regulations made under this Act, the amount of money in the account is more than is required for the purposes referred to

in paragraphs 1 to 4, such other purposes as are prescribed by the regulations. 2007, c. 13, s. 32.

Director's election to give priority to persons who suffered loss

(5) The Director may elect not to request payment out of the account under subsection (3) if, in his or her opinion, all or substantially all of the money in the account is needed to compensate the persons who are entitled to compensation under paragraph 1 of subsection (4). 2007, c. 13, s. 32.

Payment for Crown's costs after payment to persons who suffered loss

(6) If the Director elects not to request payment under subsection (3), the Minister of Finance shall, at the request of the Director and in the amounts determined by the Director under subsection (8), make payments to compensate the Crown in right of Ontario for its costs incurred as described in subsection (3) out of the account, after the payments are made to compensate the persons who are entitled to compensation under paragraph 1 of subsection (4). 2007, c. 13, s. 32.

Payment for Crown's costs out of other accounts

(7) If the amount of money in the account is insufficient to satisfy the Crown's costs pursuant to a request made by the Director under subsection (3) or (6), the Minister of Finance shall make payments to compensate the Crown in right of Ontario for its unsatisfied costs out of another account into which money is deposited under subsection (1) as a result of another proceeding, after payments have been made out of that account to compensate the persons who are entitled to compensation out of that account under paragraph 1 of subsection (4) and to compensate the Crown for its costs incurred in respect of that account. 2007, c. 13, s. 32.

Determination of Crown's costs

(8) The amount of the Crown's costs under subsection (3) or (6) shall be determined by the Director on any basis, or combination of them, that he or she considers appropriate in the circumstances, including,

- (a) a flat rate for every forfeiture;
- (b) a flat rate for every step taken;
- (c) an hourly rate;
- (d) the actual costs; or
- (e) a percentage of the value of the vehicle forfeited. 2007, c. 13, s. 32.

Related vehicles

(9) If money is required to be deposited under subsection (1) in respect of two or more vehicles and the Minister of Finance is of the opinion that the vehicles are related, the money may be deposited into a single account and, for the purpose of payments out of the account, a reference in subsection (3), (4) or (8) to "the vehicle" shall be deemed to be a reference to any of the vehicles. 2007, c. 13, s. 32.

PART IV CONSPIRACIES THAT INJURE THE PUBLIC

Definitions

12. In this Part,

"injury to the public" includes,

- (a) any unreasonable interference with the public's interest in the enjoyment of property,

- (b) any unreasonable interference with the public's interest in questions of health, safety, comfort or convenience, and
- (c) any expenses or increased expenses incurred by the public, including any expenses or increased expenses incurred by the Crown in right of Ontario, a municipal corporation or a public body; ("préjudice causé au public")

"property" means real or personal property, and includes any interest in property; ("bien")

"public" includes any class of the public; ("public")

"unlawful activity" means an act or omission that,

- (a) is an offence under an Act of Canada, Ontario or another province or territory of Canada, or
- (b) is an offence under an Act of a jurisdiction outside Canada, if a similar act or omission would be an offence under an Act of Canada or Ontario if it were committed in Ontario,

whether the act or omission occurred before or after this Part came into force. ("activité illégale") 2001, c. 28, s. 12.

Attorney General's proceeding based on conspiracy

13. (1) In a proceeding commenced by the Attorney General, the Superior Court of Justice may make any order that the court considers just if it finds that,

- (a) two or more persons conspired to engage in unlawful activity;
- (b) one or more of the parties to the conspiracy knew or ought to have known that the unlawful activity would be likely to result in injury to the public; and
- (c) injury to the public has resulted from or would be likely to result from the unlawful activity. 2001, c. 28, s. 13 (1).

Action or application

(2) The proceeding may be by action or application. 2001, c. 28, s. 13 (2).

Notice to public

(3) The Attorney General shall give notice to the public of a proceeding under this section in accordance with the regulations. 2001, c. 28, s. 13 (3).

Orders

(4) Without limiting the generality of subsection (1), an order made under subsection (1) may,

- (a) for the purpose of preventing or reducing the risk of injury to the public, require any person to do or refrain from doing anything specified in the order; or
- (b) require a party to the conspiracy referred to in clause (1) (a) to pay damages to the Crown in right of Ontario for any injury to the public resulting from the unlawful activity. 2001, c. 28, s. 13 (4).

Damages

(5) Despite subsections (1) and (4), no order shall be made requiring the payment of damages to the Crown in right of Ontario if,

- (a) another person gives the court written notice that the other person claims a right to those damages and has commenced or intends to commence a separate proceeding

seeking payment, by a defendant to the proceeding under this section, of those damages; and

- (b) the court is satisfied that the claim referred to in clause (a) is not frivolous or vexatious. 2001, c. 28, s. 13 (5).

Presumption of risk of injury to the public

(6) For the purpose of clause (4) (a), proof that, during the period that began five years before the day the proceeding was commenced, a defendant engaged in or conspired to engage in unlawful activity on at least two occasions and, in each case, injury to the public resulted from the unlawful activity, is proof, in the absence of evidence to the contrary, that similar unlawful activity would create a risk of injury to the public. 2001, c. 28, s. 13 (6).

Limitation period

(7) A proceeding under this section shall not be commenced after the 15th anniversary of the date the cause of action arose. 2001, c. 28, s. 13 (7).

Interlocutory order

14. (1) On motion by the Attorney General in a proceeding or intended proceeding under section 13, the Superior Court of Justice may, for the purpose of preventing or reducing the risk of injury to the public, make such interlocutory order as the court considers just. 2001, c. 28, s. 14 (1).

Presumption of risk of injury to the public

(2) Subsection 13 (6) applies, with necessary modifications, for the purpose of this section. 2001, c. 28, s. 14 (2).

Motion made without notice

(3) An order under subsection (1) may be made on motion without notice for a period not exceeding 30 days. 2001, c. 28, s. 14 (3); 2007, c. 13, s. 33 (1).

Extension

(4) If 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 affected by the order, unless the court is satisfied that because a party has been evading service or because there are other exceptional circumstances, the order ought to be extended without notice to the party. 2001, c. 28, s. 14 (4).

Same

(5) An extension may be granted on a motion without notice for a further period not exceeding 30 days. 2001, c. 28, s. 14 (5); 2007, c. 13, s. 33 (2).

Special purpose account

15. (1) If the Crown in right of Ontario receives money pursuant to an order made in a proceeding under this Part that requires a person to pay damages to the Crown, the money shall be deposited in a separate, interest bearing account in the Consolidated Revenue Fund. 2001, c. 28, s. 15 (1).

Same

(2) For the purpose of the *Financial Administration Act*, money deposited under subsection (1) shall be deemed to be money paid to Ontario for a special purpose. 2001, c. 28, s. 15 (2).

Payments out of account for Crown's costs

(2.1) If money is deposited in an account under subsection (1), the Minister of Finance

shall make payments out of the account, at the request of the Director and in the amounts determined by the Director under subsection (3.2), to compensate the Crown in right of Ontario for its costs incurred,

- (a) in conducting the proceeding under this Part;
 - (b) in determining whether the proceeding under this Part should be commenced;
 - (c) in preserving, managing or disposing of the property under this Part; and
 - (d) in enforcing or complying with orders made under this Part in respect of the property.
- 2005, c. 33, s. 26 (1).

Other payments out of account

(3) Subject to the regulations made under this Act and after making the payments, if any, out of the account under subsection (2.1), the Minister of Finance may make payments out of the account described in subsection (1) for the following purposes:

1. To assist victims of unlawful activities or to prevent unlawful activities that result in victimization.
2. To compensate the Crown in right of Ontario for costs incurred in respect of the proceeding under this Part, other than the costs described in subsection (2.1), and for pecuniary losses suffered as a result of unlawful activity that the proceeding related to, including costs incurred in remedying the effects of the unlawful activity.
3. To compensate a municipal corporation or a public body that belongs to a class prescribed by the regulations made under this Act for pecuniary losses that were suffered as a result of unlawful activity that the proceeding related to and that are costs incurred in remedying the effects of the unlawful activity.
4. If, according to the criteria prescribed by the regulations made under this Act, the amount of money in the account is more than is required for the purposes referred to in paragraphs 1 to 3, such other purposes as are prescribed by the regulations. 2005, c. 33, s. 26 (2).

Payment for Crown's costs in other proceedings

(3.1) After making the payments, if any, out of the account under subsection (2.1) and paragraphs 2 and 3 of subsection (3), the Minister of Finance shall make payments, at the request of the Director and in the amounts determined by the Director under subsection (3.2), to compensate the Crown in right of Ontario for its costs incurred,

- (a) in conducting any other proceeding under this Part;
- (b) in determining whether any other proceeding under this Part should be commenced;
- (c) in preserving, managing or disposing of any other property under this Part; and
- (d) in enforcing or complying with orders made under this Part in respect of any other property. 2005, c. 33, s. 26 (2).

Determination of Crown's costs

(3.2) The amount of the Crown's costs under subsection (2.1) or (3.1) shall be determined by the Director on any basis, or combination of them, that he or she considers appropriate in the circumstances, including,

- (a) a flat rate for every forfeiture;
- (b) a flat rate for every step taken;

- (c) an hourly rate;
- (d) the actual costs; or
- (e) a percentage of the value of the property forfeited. 2005, c. 33, s. 26 (2).

PART IV.1 MANAGEMENT OF PROPERTY

Definition

15.0.1 In this Part,

“property” includes a vehicle, as defined in section 11.1. 2007, c. 13, s. 34.

Director of Asset Management – Civil

15.1 (1) The Attorney General shall appoint a person to be the Director of Asset Management – Civil who shall be responsible for taking possession of and preserving, managing or disposing of or otherwise dealing with all property,

- (a) forfeited to the Crown in right of Ontario under this Act or under the *Prohibiting Profiting from Recounting Crimes Act, 2002*; or
- (b) that is the subject of an interlocutory order under subsection 4 (1), 9 (1), 11.3 (1) or 14 (1) of this Act or under subsection 5 (1) or 6 (2) of the *Prohibiting Profiting from Recounting Crimes Act, 2002* under which the Director is assigned duties by the court. 2005, c. 33, s. 27; 2007, c. 13, s. 35.

Same

(2) The Director shall perform any additional duties assigned to him or her by the Attorney General. 2005, c. 33, s. 27.

Acting Director

15.2 (1) The powers and duties of the Director of Asset Management – Civil may be exercised and performed by an employee of the Ministry appointed as Acting Director if,

- (a) the Director is absent or unable to act; or
- (b) the individual who was appointed Director has ceased to be the Director and no new Director has been appointed. 2005, c. 33, s. 27.

Same

(2) An Acting Director shall be appointed by the Director or, if the Director is absent or unable to act, the Deputy Attorney General. 2005, c. 33, s. 27.

Director's powers

15.3 (1) Subject to any limits contained in an order under subsection 4 (1), 9 (1), 11.3 (1) or 14 (1) of this Act or under subsection 5 (1) or 6 (2) of the *Prohibiting Profiting from Recounting Crimes Act, 2002*, the Director of Asset Management – Civil may preserve, manage, modify, store, sell or otherwise dispose of or deal with any property described in subsection 15.1 (1) that is not money in any manner that he or she considers proper. 2007, c. 13, s. 36 (1).

Same

(2) Without limiting the generality of subsection (1), the Director may,

- (a) tow, take possession of and preserve, store or manage the property for the length of time and on the terms that he or she considers proper;
- (a.1) modify a vehicle to which Part III.1 applies by installing an approved ignition

interlock device, as defined in that Part;

- (b) convert the property to money at a price and on the terms that he or she considers proper;
- (c) sell, assign, dispose of, use, give or transfer the property, or any interest in the property, at the price and on the terms that he or she considers proper;
- (d) do anything he or she considers advisable for the on-going management or operation of property described in subsection (1) before its final disposition, including,
 - (i) complying with the terms of any order to which the property is subject, including an order to comply with environmental, industrial, labour or property standards or to pay taxes, utility charges or other charges, or
 - (ii) making improvements to the property to maintain its economic value; or
- (e) sell or otherwise dispose of perishable or rapidly depreciating property. 2005, c. 33, s. 27; 2007, c. 13, s. 36 (2).

Management of property forfeited to the Crown

15.4 (1) Property that is forfeited to the Crown in right of Ontario under an order made under this Act shall be dealt with and disposed of by the Director of Asset Management – Civil as provided under this Part. 2005, c. 33, s. 27.

Escheats Act does not apply

(2) The *Escheats Act* does not apply to property that is forfeited to the Crown in right of Ontario under an order made under this Act. 2005, c. 33, s. 27.

Fines and Forfeitures Act does not apply

(3) The *Fines and Forfeitures Act* does not apply to property that is forfeited to the Crown in right of Ontario under an order made under this Act. 2005, c. 33, s. 27.

Mining lands

(4) Despite subsection 15.1 (1) and subsection (1) of this section, where mining lands as defined in the *Mining Act* have become forfeited to the Crown in right of Ontario under an order made under this Act, such mining lands shall be dealt with and disposed of as Crown lands in the manner provided in the *Mining Act*. 2005, c. 33, s. 27.

PART V GENERAL

Notice of proceedings, etc.

15.5 (1) In any proceeding or intended proceeding under Part II, III or III.1, the Attorney General shall give notice of the proceeding and of any interlocutory motion to be brought in respect of such proceeding or intended proceeding to the following persons in accordance with the rules of court as if such persons were parties to the proceeding:

1. Where the property that is the subject of the proceeding or intended proceeding is registered under the *Land Titles Act*, every person appearing by the parcel register to have an interest in the property.
2. Where the *Registry Act* applies to the property that is the subject of the proceeding or intended proceeding, every person appearing by the abstract index to have an interest in the property.
3. Where there is a statutory lien in favour of the Crown or any other public authority

against the property that is the subject of the proceeding or intended proceeding and where the Attorney General has written notice of the lien, the Crown or other public authority claiming the lien.

4. Where the Attorney General has actual notice, before commencing a proceeding for forfeiture of the property or an interlocutory motion in respect of that property, that any person has an interest in the property or claims to be the rightful owner of the property, that person.
5. Where a proceeding for forfeiture or interlocutory motion is commenced or brought under Part II, a person who has given the Attorney General written notice, before the commencement of the proceeding or motion in respect of the property, that the person is the legitimate owner, as defined in section 2, of the property.
6. Where a proceeding for forfeiture or interlocutory motion is commenced or brought under Part III, a person who has given the Attorney General written notice, before the commencement of the proceeding or motion in respect of the property, that the person is the responsible owner, as defined in section 7, of the property.
7. Where a proceeding for forfeiture or interlocutory motion is commenced or brought under Part III.1, a person who has given the Attorney General written notice, before the commencement of the proceeding or motion in respect of the vehicle, that the person is the owner, as defined in section 11.1, of the vehicle.
8. Where a security interest under the *Personal Property Security Act* has attached to the property that is the subject of a proceeding or intended proceeding, the person named in a security agreement that has been perfected by registration under that Act before a proceeding for forfeiture or interlocutory motion is commenced or brought.
9. Where a person described in paragraph 1, 2, 3, 4, 5, 6, 7 or 8 is an undischarged bankrupt under the *Bankruptcy and Insolvency Act* (Canada), that person's trustee in bankruptcy. 2007, c. 13, s. 37.

Parties

[\(2\)](#) Every person who is entitled to receive notice under subsection (1) shall be deemed to be a party to the proceeding for forfeiture or interlocutory motion as if they were a named defendant or respondent in the proceeding or motion. 2007, c. 13, s. 37.

Failure to file a notice of appearance

[\(3\)](#) Despite subsection (1), a person who is given notice under subsection (1) and does not file a notice of appearance as required by the rules of court is not entitled to any further notice of a proceeding or motion in respect of the same matter. 2007, c. 13, s. 37.

Actions *in rem*

[15.6 \(1\)](#) All proceedings, including proceedings for an interlocutory order, under Parts II, III and III.1, whether by action or application, are *in rem* and not *in personam*. 2007, c. 13, s. 37.

Parties

[\(2\)](#) Subsection (1) applies even though the proceedings have parties. 2007, c. 13, s. 37.

Same

[\(3\)](#) The rules of court apply with necessary modifications to the court's jurisdiction to make an order in respect of any party or other person in any proceeding as if the proceeding were *in personam* and such person were a named defendant or respondent in the proceeding. 2007, c. 13, s. 37.

Application

(4) This section applies to all proceedings under Parts II, III and III.1, including proceedings for an interlocutory order, even if the proceedings were commenced before the coming into force of this section. 2007, c. 13, s. 37.

Standard of proof

16. Except as otherwise provided in this Act, findings of fact in proceedings under this Act shall be made on the balance of probabilities. 2001, c. 28, s. 16.

Proof of offences

17. (1) In proceedings under this Act, proof that a person was convicted, found guilty or found not criminally responsible on account of mental disorder in respect of an offence is proof that the person committed the offence. 2001, c. 28, s. 17 (1).

Same

(2) In proceedings under this Act, an offence may be found to have been committed even if,

- (a) no person has been charged with the offence; or
- (b) a person was charged with the offence but the charge was withdrawn or stayed or the person was acquitted of the charge. 2001, c. 28, s. 17 (2).

Where possession unlawful

18. For the purposes of a proceeding under this Act, a person cannot claim to have an interest in property, including a vehicle as defined in section 11.1, if, under the law of Canada or Ontario, it is unlawful for the person to possess the property. 2001, c. 28, s. 18; 2007, c. 13, s. 38.

Personal information

19. (1) The Attorney General may collect personal information for any of the following purposes:

1. To determine whether a proceeding should be commenced under this Act.
2. To conduct a proceeding under this Act.
3. To identify and locate persons who suffered pecuniary or non-pecuniary losses, including losses recoverable under Part V of the *Family Law Act*, in order to compensate such persons under paragraph 1 of subsection 6 (3), paragraph 1 of subsection 11 (3) or paragraph 1 of subsection 11.4 (4).
4. To assist the Director of Asset Management – Civil in performing his or her duties and exercising his or her powers under Part IV.1 in respect of any property that is or may be the subject of a proceeding under this Act.
5. To enforce or comply with an order made under this Act. 2001, c. 28, s. 19 (1); 2005, c. 33, s. 28 (1); 2007, c. 13, s. 39 (1).

Agreements with other jurisdictions

(1.1) The Director of Asset Management – Civil may, subject to the regulations made under this Act, enter into agreements for the collection, use or disclosure of information, including personal information or for the purpose of exchanging and sharing information, including personal information with the government of Canada, of another province or territory of Canada or of any jurisdiction outside of Canada, with an agency of any such government or with any public body in or outside Canada for any purpose listed in paragraphs 1 to 5 of

subsection (1) or for a similar purpose under an Act of the other jurisdiction. 2007, c. 13, s. 39 (2).

Information from Ministry of Transportation

[\(1.2\)](#) The Attorney General may collect from the Ministry of Transportation information, including personal information, obtained by the Ministry of Transportation pursuant to any information sharing agreement between the Minister of Transportation and the government of any other jurisdiction, an agency of any such government or any public body in or outside Canada for a purpose set out in subsection (1). 2007, c. 13, s. 39 (2).

Manner of collection

[\(2\)](#) Personal information may be collected under subsection (1) directly from the individual to whom the information relates or in any other manner. 2001, c. 28, s. 19 (2).

Disclosure to assist in administration or enforcement of the law

[\(3\)](#) The Attorney General shall disclose information collected under subsection (1), (1.1) or (1.2) to a law enforcement agency or another person engaged in the administration or enforcement of the law if the Attorney General is of the opinion that the disclosure would assist in the administration or enforcement of the law, would be in the public interest and would not be contrary to the interests of justice. 2001, c. 28, s. 19 (3); 2007, c. 13, s. 39 (3).

Obligation to disclose information to reviewing authority

[\(4\)](#) Despite the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* and despite any confidentiality provision of any other Act, a person who has knowledge of personal information or other information that he or she believes would be useful for a purpose described in subsection (1), (1.1) or (1.2) shall disclose it to the reviewing authority prescribed by the regulations made under this Act if all of the following criteria are met:

1. The information is in the custody of or under the control of an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act* that is prescribed by the regulations made under this Act.
2. The person who has knowledge of the information belongs to a class of persons prescribed by the regulations made under this Act.
3. The person who has knowledge of the information acquired it in circumstances prescribed by the regulations made under this Act. 2001, c. 28, s. 19 (4); 2007, c. 13, s. 39 (4).

Obligation to disclose information to Attorney General

[\(5\)](#) If information is disclosed under subsection (4) to the reviewing authority prescribed by the regulations made under this Act and the reviewing authority is satisfied that the criteria prescribed by the regulations are met, the person who disclosed the information to the reviewing authority shall disclose it to the Attorney General. 2001, c. 28, s. 19 (5).

Additional information disclosed directly to Attorney General

[\(5.1\)](#) Despite the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* and despite any confidentiality provision of any other Act, a person who discloses information to the Attorney General under subsection (5) shall, if requested by the Attorney General, disclose additional information directly to the Attorney General without disclosing it first to the reviewing authority if the person believes that,

- (a) the additional information is required for a purpose described in subsection (1), (1.1) or (1.2);
- (b) the additional information is required in respect of the same proceeding as the information provided under subsection (5);
- (c) the additional information is in the custody or under the control of the same institution as the information provided under subsection (5);
- (d) the fact that the person has such additional information is disclosed by the information provided under subsection (5);
- (e) the reviewing authority did not already make a determination under subsection (5) that the criteria prescribed by the regulations were not met in respect of the additional information; and
- (f) the information is not protected by evidentiary rules respecting informer privilege. 2005, c. 33, s. 28 (2); 2007, c. 13, s. 39 (5).

Subsequent disclosure to reviewing authority

[\(5.2\)](#) A person who discloses additional information to the Attorney General under subsection (5.1) shall, within 14 days after that disclosure, disclose the same information to the reviewing authority. 2005, c. 33, s. 28 (2).

Exception

[\(6\)](#) Subsections (4) and (5) do not require a person to disclose information if the person believes that the disclosure would unduly interfere with the administration or enforcement of any Act of Canada, Ontario, another province or territory of Canada or a jurisdiction outside of Canada. 2007, c. 13, s. 39 (6).

Evidence in proceeding

[\(7\)](#) Despite any confidentiality provision of any Act, a person who disclosed information to the reviewing authority under subsection (4) or to the Attorney General under subsection (5) or (5.1) may be required to give evidence related to that information in a proceeding under this Act. 2005, c. 33, s. 28 (3).

Personal health information

[\(8\)](#) A health information custodian shall not disclose personal health information to the reviewing authority under subsection (4) or (5.2) or to the Attorney General under subsection (5) or (5.1). 2005, c. 33, s. 28 (4).

Same

[\(8.1\)](#) A person, including a health information custodian but excluding a person described in subsection (4), shall not disclose personal health information to the Attorney General unless required to do so by,

- (a) an order made under subsection (9); or
- (b) in a proceeding, the rules of court or a summons, order or similar requirement issued in the proceeding. 2005, c. 33, s. 28 (4).

Order for disclosure of personal health information

[\(9\)](#) On application by the Attorney General, the Superior Court of Justice may order a person to disclose personal health information to the Attorney General for a purpose described in subsection (1), (1.1) or (1.2) if the court determines, after a hearing from which the public is excluded and that is held on notice to the individual to whom the information relates, that the

disclosure is essential in the interests of justice. 2001, c. 28, s. 19 (9); 2007, c. 13, s. 39 (7).

Other obligations to disclose

(9.1) Nothing in this section alters a person's obligation to disclose information to the Attorney General or the Director of Asset Management – Civil pursuant to the rules of court, a summons, a court order or a similar requirement issued in a proceeding. 2005, c. 33, s. 28 (5).

Definitions

(10) In this section,

“health care”, “health information custodian”, “health number” and “personal health information” have the same meanings as in the *Personal Health Information Protection Act, 2004*; (“soins de santé”, “dépositaire de renseignements sur la santé”, “numéro de la carte Santé”, “renseignements personnels sur la santé”)

“personal information” means personal information within the meaning of Part III of the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“personal support service” means assistance with or supervision of hygiene, washing, dressing, grooming, eating, drinking, elimination, ambulation, positioning or any other routine activity of living; (“service de soutien personnel”)

“registration information” means information relating to an individual that is collected or created for the purpose of registration of the individual in connection with services or benefits that a provider of health care provides to the individual and includes,

(a) the individual's name, home address and home telephone number, gender, date of birth, date of death if applicable, residency status, family association and marital status,

(b) the individual's signature or electronic or photographic image, and

(c) any identification number for the individual, other than a health number,

but does not include information about the health status of the individual or health care provided to the individual. (“renseignements en matière d'inscription”) 2001, c. 28, s. 19 (10); 2005, c. 33, s. 28 (6).

Proceedings pursuant to agreements

19.1 (1) A proceeding may be commenced under Part II, III or III.1 pursuant to an agreement entered into under subsection 19 (1.1). 2007, c. 13, s. 40.

Forfeited property

(2) Property that is forfeited to the Crown pursuant to a proceeding referred to in subsection (1) may, subject to the regulations made under this Act, be delivered to the other jurisdiction *in specie* in whole or in part, retained in Ontario or, if the property is not money, converted into money and distributed out of the special purpose account referred to in section 6, 11 or 11.4, as the case may be. 2007, c. 13, s. 40.

Protection from liability

20. (1) No action or other proceeding may be commenced against the Attorney General, the Crown in right of Ontario or any person acting on behalf of, assisting or providing information to the Attorney General or the Crown in right of Ontario in respect of the commencement or conduct in good faith of a proceeding under this Act or in respect of the enforcement in good faith of an order made under this Act. 2001, c. 28, s. 20 (1).

Determinations of reviewing authority

(2) No action or other proceeding may be commenced against the reviewing authority referred to in subsection 19 (5), the Attorney General, the Crown in right of Ontario or any person acting on behalf of, assisting or providing information to the Attorney General or the Crown in right of Ontario in respect of any determination made in good faith under subsection 19 (5) by the reviewing authority. 2001, c. 28, s. 20 (2).

Director of Asset Management – Civil

(3) No action or other proceeding shall be instituted against the Attorney General, the Director of Asset Management – Civil, any employee of the Ministry of the Attorney General or any person acting on behalf of the Director for any act done in good faith in the performance or intended performance of any duty under Part IV.1 or in the exercise or in the intended exercise of any power under that Part, or for any neglect or default in the performance or exercise in good faith of any such duty or power. 2005, c. 33, s. 29.

Same

(4) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (3) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (3) to which it would otherwise be subject. 2005, c. 33, s. 29.

Regulations

21. (1) The Lieutenant Governor in Council may make regulations,

- (a) providing that orders under section 5 or 10 may apply only to legal expenses incurred for a purpose prescribed by the regulations and are subject to monetary limits prescribed by the regulations;
- (b) governing payments out of accounts referred to in section 6, 11, 11.4 or 15, including governing the circumstances in which payments may be made, governing the amounts of payments, governing procedures for determining what payments are made, prescribing classes of public bodies for the purpose of paragraph 4 of subsection 6 (3), paragraph 4 of subsection 11 (3) and paragraph 4 of subsection 11.4 (4) and, in the case of payments under paragraph 1 of subsection 6 (3), paragraph 1 of subsection 11 (3) or paragraph 1 of subsection 11.4 (4),
 - (i) providing that payments be made only with the approval of the Criminal Injuries Compensation Board or another person or body specified in the regulations, and
 - (ii) providing that a decision under subclause (i) to approve or not approve a payment is final and not subject to appeal, and shall not be altered or set aside in an application for judicial review or in any other proceeding unless the decision is patently unreasonable;
- (b.1) prescribing offences under the *Criminal Code* (Canada) and the *Highway Traffic Act*, and prescribing circumstances and conditions, for the purpose of the definition of vehicular unlawful activity in section 11.1;
- (c) governing the giving of notice to the public of a proceeding under section 13;
- (c.1) governing agreements authorized by subsection 19 (1.1);
- (d) prescribing a person or body as the reviewing authority for the purpose of subsections 19 (4) and (5), prescribing institutions, classes of persons and circumstances for the purpose of subsection 19 (4) and prescribing criteria for the purpose of subsection 19 (5);
- (d.1) governing the delivery or distribution of property under subsection 19.1 (2);

(e) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the purpose of this Act. 2001, c. 28, s. 21 (1); 2007, c. 13, s. 41.

Same

[\(1.1\)](#) A regulation made under clause (1) (d) shall not prescribe health information custodians, as defined in subsection 19 (10), as a class of persons for the purpose of subsection 19 (4). 2005, c. 33, s. 30.

General or particular

[\(2\)](#) A regulation made under subsection (1) may be general or particular in its application. 2001, c. 28, s. 21 (2).

[22.-24.](#) Omitted (amends or repeals other Acts). 2001, c. 28, ss. 22-24.

[25.](#) Omitted (provides for coming into force of provisions of this Act). 2001, c. 28, s. 25.

[26.](#) Omitted (enacts short title of this Act). 2001, c. 28, s. 26.

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