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Fourth Session, Forty-second Parliament  
1 Charles III, 2023  
Legislative Assembly of British Columbia

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**BILL 21**

**CIVIL FORFEITURE AMENDMENT ACT, 2023**

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Honourable Mike Farnworth  
Minister of Public Safety and Solicitor General and Deputy Premier

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## **Explanatory Notes**

CLAUSE 1: *[Civil Forfeiture Act, section 1]* adds, amends and repeals and replaces definitions related to the amendments made by this Bill.

**BILL 21 – 2023**

**CIVIL FORFEITURE AMENDMENT ACT, 2023**

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

*1 Section 1 (1) of the Civil Forfeiture Act, S.B.C. 2005, c. 29, is amended*

*(a) by adding the following definitions:*

“**business day**” means a day on which the court registries are open for business;

“**corporation**” means a corporation as defined in section 1 of the *Business Corporations Act*;

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

*(b) in paragraph (a) of the definition of “instrument of unlawful activity” by striking out “or” at the end of subparagraph (i) and by repealing subparagraph (ii) and substituting the following:*

(ii) caused serious bodily harm to a person, or

(iii) could have resulted in serious bodily harm to a person; ,

*(c) in paragraph (c) of the definition of “instrument of unlawful activity” by striking out everything after “paragraph (a) or (b)”;*

*(d) by adding the following definition:*

“**limited partnership**” means a limited partnership

(a) formed under section 51 of the *Partnership Act*, or

(b) registered under section 80 of the *Partnership Act*; ,

*(e) in paragraph (d) of the definition of “proceeds of unlawful activity” by striking out everything after “paragraph (a), (b) or (c)”, and*

CLAUSE 1: *[Civil Forfeiture Act, section 1 – continued]*

**(f) by adding the following definitions:**

**“public body”**, except in section 22 and Division 1 of Part 4.1, means any of the following:

- (a) Canada, a province or another jurisdiction in or outside Canada with which the director has entered into an information-sharing agreement under section 22 (4) (a);
- (b) a public body as defined in the *Freedom of Information and Protection of Privacy Act*;

**“respondent”** means a person in respect of whom an unexplained wealth order is sought or made, other than a responsible officer;

**“responsible officer”** means the following:

- (a) in the case of a respondent that is a corporation, an individual who is a director, as defined in section 1 of the *Business Corporations Act*, or senior officer of the corporation;
- (b) in the case of a respondent that is a limited partnership,
  - (i) an individual who is a general partner in the limited partnership, or
  - (ii) an individual who is a responsible officer in relation to a corporation or a partnership that is a general partner in the limited partnership;
- (c) in the case of a respondent that is a partnership other than a limited partnership,
  - (i) an individual who is a partner in the partnership, or
  - (ii) an individual who is a responsible officer in relation to a corporation or a partnership that is a partner in the partnership;
- (d) a prescribed individual or an individual in a prescribed class;

**“senior officer”**, in relation to a corporation, means a senior officer as defined in section 1 (1) of the *Business Corporations Act*;

**“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 forfeiture is initiated in relation to the vehicle or the whole or a portion of an interest in the vehicle under section 14.04, holds a specified security interest in the vehicle or the whole or the portion of the interest in the vehicle, and
- (b) did not directly or indirectly engage in the unlawful activity that is the basis of forfeiture under this Act;

CLAUSE 1: *[Civil Forfeiture Act, section 1 – continued]*

CLAUSE 2: *[Civil Forfeiture Act, section 1]* adds an interpretative rule related to the definition of “uninvolved interest holder”, as added by this Bill to section 1 of the Act.

CLAUSE 3: *[Civil Forfeiture Act, section 4.01]* clarifies the information that must be provided by a person in response to proceedings.

**“specified security interest”**, in relation to a financed vehicle, means a security interest

- (a) taken in the vehicle or the whole or a portion of an interest in the vehicle for one or more of the following purposes:
  - (i) to secure payment of all or part of the purchase price of the vehicle;
  - (ii) to secure payment of a financed debt obligation;
  - (iii) a prescribed purpose, and
- (b) in respect of which a financing statement containing a description of the vehicle by serial number is registered in the personal property registry, and does not include
- (c) an interest under a lease for a term of more than one year, within the meaning of the *Personal Property Security Act*, that does not secure payment or performance of an obligation, or
- (d) a prescribed security interest;

**“unexplained wealth order”** means a court order made under section 11.11;

**“uninvolved interest holder”** means a person who

- (a) owns, at the time of application for an order under section 3, the whole or a portion of an interest in property that is an instrument of unlawful activity, and
- (b) did not directly or indirectly engage in the unlawful activity that is the basis of the application referred to in paragraph (a).

**2 Section 1 is amended by adding the following subsection:**

- (3) A person who indirectly engaged in the unlawful activity that is the basis of the application referred to in paragraph (a) of the definition of “uninvolved interest holder” includes, without limitation, a person who had knowledge of the unlawful activity and received a financial benefit from the unlawful activity.

**3 Section 4.01 is repealed and the following substituted:**

**Response must identify interest in property**

- 4.01** A person who files a response to proceedings commenced under section 3 must set out in the response particulars of the nature of the interest or the portion of the interest that the person claims in the property that is the subject of the application for forfeiture, including the extent of the interest or the portion of the interest in the property.

CLAUSE 4: *[Civil Forfeiture Act, section 6]* removes gendered language.

CLAUSE 5: *[Civil Forfeiture Act, section 7]* amends provisions that determine when a forfeiture order is effective in relation to certain types of property.

4 *Section 6 (2) (a) and (b) is amended by striking out “she or he” and substituting “the party”.*

5 *Section 7 is repealed and the following substituted:*

**Effective date of forfeiture order**

- 7 (1) A forfeiture order made with respect to property or the whole or a portion of an interest in property, as applicable, is effective as follows:
- (a) in the case of real property or an interest in real property registered in the land title office,
    - (i) at the time a notice is filed under section 23 (1) with respect to the property or the whole or a portion of an interest in the property, or
    - (ii) at the time the forfeiture order is filed in the land title office with respect to the property or the whole or a portion of an interest in the property, if no notice is filed under section 23 (1);
  - (b) in the case of property that is realized from the disposition of real property or an interest in real property registered in the land title office, if a notice was filed under section 23 (1) with respect to the real property or the whole or a portion of an interest in the real property, at the time the notice was filed;
  - (c) subject to paragraph (b), in the case of personal property or the whole or a portion of an interest in personal property, at the earliest of the following dates, as applicable:
    - (i) if notice of interest published under section 23.04 in relation to the property or the whole or the portion of the interest in property has not, at the time the forfeiture order is made, been withdrawn, the date the notice of interest was published;
    - (ii) if notice of forfeiture was registered under section 14.04 (1) (a) in relation to personal property that is serial numbered goods, the date the notice of forfeiture was registered;
    - (iii) if forfeiture was initiated under section 14.04 (1) in relation to the property or the whole or the portion of the interest in property, the date on which forfeiture was initiated;
    - (iv) the date proceedings were commenced under section 3 in relation to the property.
- (2) A forfeiture order is retroactive to the extent necessary to give it force and effect on and after the date or time referred to in subsection (1) (a), (b) or (c), as applicable.

CLAUSE 6: *[Civil Forfeiture Act, section 8]* removes gendered language.

CLAUSE 7: *[Civil Forfeiture Act, section 11.021]* requires that, on request of the director, a registrar of the court must seal the court file relating to an application or related materials until the application is heard.

CLAUSE 8: *[Civil Forfeiture Act, section 11.03]* extends the period for an order under section 11.02 of the Act without notice.

CLAUSE 9: *[Civil Forfeiture Act, section 11.04]* is consequential to amendments made by this Bill to the Act.

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3]*

- adds defined terms related to unexplained wealth orders;
- sets out the process to apply for an unexplained wealth order, including serving the notice of application, when responses are to be filed and a procedure to shorten the period for filing and serving a response;
- provides the test for an unexplained wealth order to be granted;
- provides for the matters that must be included in an unexplained wealth order.

6 *Section 8 (2.1) is amended by striking out “her or his” and substituting “the director’s”.*

7 *The following section is added:*

**Court file may be sealed**

- 11.021 (1) If an application under section 11.01 or 11.02 is brought without notice, the director may request that the application and any supporting affidavits or other materials be sealed by a registrar of the court.
- (2) On receipt of a request under subsection (1), the registrar of the court must
- (a) seal the court file respecting the documents referred to in that subsection, and
  - (b) prohibit access to those documents other than by the director.
- (3) The documents referred to in subsection (1) must remain sealed until the hearing of the application.

8 *Section 11.03 (2) is amended by striking out “60 days” and substituting “90 days”.*

9 *Section 11.04 (1) is repealed.*

10 *The following Division is added to Part 3:*

**Division 1.2 – Unexplained Wealth Orders**

**Definitions**

11.05 In this Division:

“**affiliated**”, in relation to persons, means a person who is affiliated with another person within the meaning of section 11.06;

“**beneficial owner**”, in relation to an interest in property held by a trustee of a trust, means a person who is, in respect of the interest in property, a beneficial owner within the meaning of section 11.07;

“**connected**”, in relation to persons, means a person who is connected to a corporation, partnership or a trustee of a trust within the meaning of section 11.08;

“**relative**” means all of the following:

- (a) a parent;
- (b) a sibling;
- (c) a child;
- (d) a sibling of a parent;

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

(e) a child of a sibling;

(f) a prescribed individual or an individual in a prescribed class;

**“settlor”**, in relation to a trust, means a person who contributed any property to the trust estate, whether or not that person is the creator of the trust;

**“spouse”** means an individual who

(a) is married to another individual, or

(b) is living with another individual in a marriage-like relationship, and

(i) has done so for a continuous period of at least 2 years, or

(ii) has a child with the other individual.

**Meaning of “affiliated”**

**11.06** (1) A person is affiliated with another person as follows:

(a) an individual is affiliated with all of the following:

(i) the individual’s spouse;

(ii) a relative of the individual;

(iii) a relative of the individual’s spouse;

(iv) if the individual is connected to a corporation or partnership, any person that is connected to the corporation or partnership;

(v) a person who is affiliated with a person who is referred to in subparagraph (iv);

(vi) a spouse of an individual who is a person referred to in subparagraph (ii), (iii), (iv) or (v);

(vii) a prescribed person or a person in a prescribed class;

(b) a corporation is affiliated with all of the following:

(i) a person who is connected to the corporation;

(ii) a person who is affiliated with a person referred to in subparagraph (i);

(iii) a prescribed person or a person in a prescribed class;

(c) a partner in a partnership is affiliated with all of the following:

(i) a person who is connected to the partnership;

(ii) a person who is affiliated with a person referred to in subparagraph (i);

(iii) a prescribed person or a person in a prescribed class;

(d) a trustee of a trust is affiliated with all of the following:

(i) a person who is another trustee of the trust;

(ii) a person who is a beneficial owner in respect of the whole or a portion of an interest in property held by the trustee of the trust;

(iii) a person who is a settlor in relation to the trust;

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

- (iv) a person who has the power to do any of the following:
    - (A) remove or appoint a trustee of the trust;
    - (B) add or remove a beneficiary of the trust;
    - (C) veto a decision of a trustee of the trust;
  - (v) a person whose approval, consent or acquiescence is required under the terms of the trust for any act or decision of a trustee of the trust;
  - (vi) a person who is affiliated with a person referred to in subparagraph (i), (ii), (iii), (iv) or (v);
  - (vii) a prescribed person or a person in a prescribed class;
  - (e) a person is affiliated with another person if one of them is affiliated with the other.
- (2) Subsection (1) (a), (b), (c), (d) and (e) does not limit any other paragraph in that subsection.

**Meaning of “beneficial owner”**

**11.07** A person is a beneficial owner in respect of the whole or a portion of an interest in property held by a trustee of a trust if any of the following apply:

- (a) the person has, in respect of the whole or the portion of the interest in property, a beneficial interest, other than an interest that is contingent on the death of an individual other than the person;
- (b) the person has the power to revoke the trust and receive the whole or the portion of the interest in property;
- (c) the person is connected to a corporation that has
  - (i) a beneficial interest in respect of the whole or the portion of the interest in property, or
  - (ii) the power to revoke the trust and receive the whole or the portion of the interest in property;
- (d) the person has a prescribed interest in respect of the whole or the portion of the interest in property.

**Meaning of “connected”**

**11.08** (1) A person is connected to a corporation if any of the following apply:

- (a) the person is a legal or beneficial owner or has control, directly or indirectly, of
  - (i) shares of the corporation representing 10% or more of the value of the equity of that corporation, or
  - (ii) 10% or more of the voting rights in respect of the corporation;
- (b) the person has the right, directly or indirectly, to appoint or remove from office the majority of the board of directors of the corporation;

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

- (c) the person, directly or indirectly, has the right to exercise or does exercise significant influence or control over the corporation;
  - (d) without limiting paragraph (c), the person is a director, as defined in section 1 of the *Business Corporations Act*, of the corporation;
  - (e) the person has a prescribed interest, power or right in relation to the corporation.
- (2) For the purposes of subsection (1) (a), (b) or (c), a direct or indirect interest, power or right includes an interest, power or right that a person has
- (a) alone,
  - (b) together with one or more persons with common interests, or
  - (c) through
    - (i) a corporation,
    - (ii) a trustee of a trust,
    - (iii) a personal or legal representative,
    - (iv) an agent, or
    - (v) any other intermediary.
- (3) A person is connected to a partnership if any of the following apply:
- (a) the person is a partner in the partnership;
  - (b) the person is a beneficial owner in respect of the whole or a portion of an interest in property held by a trustee of a trust that is a partner in the partnership;
  - (c) the person is connected to a trustee of a trust, a corporation or a partnership, that is a partner in the partnership;
  - (d) prescribed circumstances.
- (4) A person is connected to a trustee of a trust if any of the following apply:
- (a) the person is another trustee of the trust;
  - (b) the person is a beneficial owner in respect of the whole or a portion of an interest in property held by the trustee of the trust;
  - (c) the person is a settlor in relation to the trust.

**Application for unexplained wealth order**

- 11.09** (1) The director may apply to the court for an unexplained wealth order in relation to property requiring a respondent or a responsible officer to provide a statement that includes all of the following:
- (a) particulars of the nature of the interest or the portion of the interest in the property held by the respondent, including the extent of the interest or the portion of the interest in the property;

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

- (b) particulars of the respondent's acquisition and maintenance of the property or the interest or the portion of the interest in the property, including how any costs incurred in acquiring and maintaining the property or the interest or the portion of the interest in the property have been met;
  - (c) if any of the circumstances listed in section 11.11 (3) (b) to (e) apply, the information or particulars with respect to those circumstances as specified by the court;
  - (d) without limiting paragraph (c), in the case of property held by a trustee of a trust, the information or particulars with respect to the trust as specified by the court;
  - (e) any other information or particulars as specified by the court.
- (2) The director may apply for an unexplained wealth order before, at the time of or subsequent to
- (a) an application for another order under this Part, or
  - (b) commencing proceedings under section 3 in relation to the property.
- (3) An application for an unexplained wealth order
- (a) applies only in relation to property or an interest in property located in British Columbia, and
  - (b) may be made whether or not,
    - (i) at the time of the application, more than one person holds an interest or a portion of an interest in the property, and
    - (ii) the respondent acquired or held the property or the whole or the portion of the interest in the property, or proceedings were commenced under Part 2 or 3 in relation to the property, before or after the date this section comes into force.
- (4) An application for an unexplained wealth order must
- (a) specify the property to which the order relates,
  - (b) set out the factual basis for the application, including the following, as applicable:
    - (i) the factual basis for the matters referred to in section 11.11 (2) (a) and (b);
    - (ii) in the case of an application that specifies a person as a responsible officer in relation to a respondent, the factual basis for doing so, and
  - (c) be supported by an affidavit of the director.

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

**Service and hearing the application**

- 11.10** (1) The director must serve a copy of the notice of application for an unexplained wealth order and each supporting affidavit on
- (a) the respondent, and
  - (b) the responsible officer, if any.
- (2) The director is not required to serve the documents referred to in subsection (1) on, or otherwise give notice of the application to, any person other than a respondent or responsible officer.
- (3) Unless the court orders otherwise, the director must serve the documents referred to in subsection (1) at least 14 business days before the date set for the hearing of the application.
- (4) A respondent or responsible officer may file and serve a response to the application and any supporting materials at least 5 business days or, subject to subsection (6), any shorter period that the court may order, before the date set for the hearing of the application.
- (5) Unless the court orders otherwise, an application for an unexplained wealth order must
- (a) be scheduled for a hearing of not more than 2 days in length, and
  - (b) be heard within 180 days after the date on which the director files the notice of application or as soon as practicable after that period.
- (6) An application under subsection (4) to shorten the period for filing and serving a response to the application for an unexplained wealth order, or an application to adjourn the hearing of the application, must be supported by an affidavit setting out
- (a) the factual basis for the application, and
  - (b) in the case of an application under subsection (4), why the person is unable to file a response at least 5 business days before the date set for the hearing of the application.
- (7) The court may shorten the period for filing and serving a response to the application for an unexplained wealth order or adjourn the hearing of the application only if
- (a) the director consents to the order, or
  - (b) the court is satisfied that
    - (i) the order is reasonable in the circumstances, and
    - (ii) in the case of an application to adjourn the hearing of the application, the respondent or responsible officer is acting diligently and expeditiously to have the application heard.
- (8) No person, other than a respondent or responsible officer, may oppose the relief sought on the application for an unexplained wealth order.

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

**Unexplained wealth order**

- 11.11** (1) In this section, “**politically exposed foreign person**” has the same meaning as in section 9.3 (3) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada).
- (2) Unless it is clearly not in the interests of justice, the court must make an unexplained wealth order in relation to property if the court is satisfied that
- (a) the director has reasonable grounds to suspect that
    - (i) the respondent, or a person affiliated with the respondent, directly or indirectly engaged in unlawful activity, or
    - (ii) the respondent is a politically exposed foreign person or is affiliated with a politically exposed foreign person,
  - (b) the director has reason to believe that
    - (i) one or more of the circumstances listed in subsection (3) apply, and
    - (ii) the fair market value of the property is greater than \$75 000, and
  - (c) one or more of the following constitutes a serious question to be tried:
    - (i) whether the known sources of the respondent’s lawfully obtained income would have been insufficient for the purpose of enabling the respondent to acquire or maintain the property or the whole or the portion of the interest in the property held by the respondent;
    - (ii) the property has been used to engage in unlawful activity;
    - (iii) the property or the whole or a portion of an interest in the property was acquired or is maintained directly or indirectly as a result of unlawful activity.
- (3) The following circumstances are listed for the purposes of subsection (2)
- (b) (i):
    - (a) the respondent is a registered or unregistered owner of the property or the whole or a portion of an interest in the property;
    - (b) the respondent is connected to a trustee of a trust that holds the whole or a portion of an interest in the property;
    - (c) the respondent is connected to a corporation that holds the whole or a portion of an interest in the property;
    - (d) both of the following apply:
      - (i) a partner in a partnership holds, as partnership property, the whole or a portion of an interest in the property;
      - (ii) the respondent is connected to the partnership referred to in subparagraph (i);
    - (e) prescribed circumstances.

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

- (4) For the purposes of subsection (2) (c) (i),
  - (a) the respondent is deemed to have acquired the property or the whole or the portion of the interest in the property at a price equivalent to its fair market value,
  - (b) the known sources of the respondent's income are the sources reasonably ascertainable from the information that is available at the time the director files the notice of application, and
  - (c) the court may consider any mortgage, charge or other kind of security that may reasonably have been available to the respondent for the purpose of acquiring or maintaining the property or the whole or the portion of the interest in the property.
- (5) The court must make an unexplained wealth order if the court is satisfied the respondent or responsible officer has been served with notice of the application, whether or not the respondent or responsible officer attends the hearing of the application.

**Contents of unexplained wealth order**

- 11.12** (1) In addition to addressing the matters referred to in section 11.09 (1), as applicable, an unexplained wealth order must do all of the following:
- (a) require a respondent or responsible officer to disclose to the director copies of the following:
    - (i) any information or records in the custody or control of the respondent or responsible officer that are related to the statement referred to in section 11.09 (1);
    - (ii) any other information or records as specified in the order;
  - (b) require that the statement referred to in section 11.09 (1) specify the location of the originals of any information or records required under paragraph (a) of this subsection;
  - (c) require that the statement referred to in section 11.09 (1) and any information or records required under subsection (1) (a) of this section are to be provided by solemn declaration;
  - (d) require that the solemn declaration be delivered to the director as soon as reasonably practicable after the date on which the order is made and, in any case, on or before a date specified in the order;
  - (e) specify the manner in which the solemn declaration is to be delivered to the director.
- (2) Without limiting section 11.09, an unexplained wealth order may include any other terms, conditions or directions that the court considers appropriate in the circumstances.
- (3) Subsection (1) (a) does not apply to information or records that are privileged.

CLAUSE 10: *[Civil Forfeiture Act, Division 1.2 of Part 3 – continued]*

CLAUSE 11: *[Civil Forfeiture Act, section 12]* is consequential to amendments made by this Bill to the Act.

CLAUSE 12: *[Civil Forfeiture Act, section 13]* makes a housekeeping amendment.

CLAUSE 13: *[Civil Forfeiture Act, section 14.01]*

- amends the definitions of “known interest holder” and “protected interest holder”;
- is consequential to amendments made by this Bill to the Act.

CLAUSE 14: *[Civil Forfeiture Act, section 14.02]* amends the provision to disapply the fair market value limit in the case of financed vehicles.

- (4) If a respondent or responsible officer claims that any information or records required under subsection (1) (a) of this section are privileged, Rule 7-1 (6), (7), (17) and (20) of the Supreme Court Civil Rules applies in relation to the claim, and for that purpose
  - (a) a reference to a document in Rule 7-1 is to be read as a reference to the information or records, and
  - (b) a reference to a list of documents in Rule 7-1 is to be read as a reference to the statement referred to in section 11.09 (1).
- (5) A respondent or responsible officer must allow the director to inspect and copy, during normal business hours and at the location specified in the statement referred to in section 11.09 (1), the originals of any records of which copies were disclosed to the director.

**Costs – application of section 37 of *Class Proceedings Act***

**11.13** Section 37 (1), (2) and (3) of the *Class Proceedings Act* applies in relation to an application for an unexplained wealth order and an appeal arising from an application.

**11** *Section 12 is repealed.*

**12** *Section 13 (2) is amended by striking out “or is deemed to be effective”.*

**13** *Section 14.01 is amended*

*(a) in the definition of “known interest holder” by striking out “section 14.04 (1) (b) (i), (ii) or (iii)” and substituting “section 14.04 (1) (b) (i), (ii), (iii) or (iii.1)”;*

*(b) in the definition of “protected interest holder” by repealing paragraphs (a) and (b) and substituting the following:*

*(a) holds a registered interest in the whole or a portion of an interest in the subject property, and*

*(b) did not directly or indirectly engage in the unlawful activity that is the basis of forfeiture under this Act,*

*but, in the case of subject property that is a financed vehicle, does not include a specified interest holder; , and*

*(c) by repealing the definition of “public body”.*

**14** *Section 14.02 is amended*

*(a) in subsection (1) (b) by adding “, other than a financed vehicle,” after “property referred to in paragraph (a) (i) or (ii)”, and*

*(b) by repealing subsection (2) (a).*

CLAUSE 15: *[Civil Forfeiture Act, section 14.04]*

- requires, in the case of serial numbered goods, registration of the notice of forfeiture in the personal property registry;
- requires, in the case of financed vehicles, that notice of forfeiture is given to a specified interest holder.

CLAUSE 16: *[Civil Forfeiture Act, section 14.06]* provides for how notice is to be given and when notice is deemed to have been received.

**15 Section 14.04 is amended**

**(a) by repealing subsection (1) (a) and substituting the following:**

- (a) in the case of subject property that is serial numbered goods, register in the personal property registry notice of forfeiture under this Part in relation to the subject property; ,

**(b) in subsection (1) (b) by striking out “section 14.06 (2)” and substituting “section 14.06 (3)”**,

**(c) in subsection (1) (b) by adding the following subparagraph:**

- (iii.1) in the case of subject property that is a financed vehicle, a person who is a specified interest holder; , **and**

**(d) by repealing subsection (4) (d) and substituting the following:**

- (d) contain any prescribed information.

**16 Section 14.06 is repealed and the following substituted:**

**How notice is to be given to known interest holders**

**14.06 (1) Notice to a known interest holder must be given**

- (a) by sending the notice by ordinary or registered mail to the last known address of the person,
  - (b) by sending the notice by email to the last known email address of the person,
  - (c) by sending the notice by fax to the last known fax number of the person, or
  - (d) by delivering the notice by a prescribed method.
- (2) Notice given to a person in accordance with subsection (1) is deemed to have been received by the person as follows:
- (a) if the notice is sent by ordinary or registered mail, on the seventh day after deposit with Canada Post;
  - (b) if the notice is sent by email or fax before 4 p.m. on a day that is not a Saturday or holiday, on the day on which the notice was sent;
  - (c) if the notice is sent by email or fax on a Saturday or holiday or after 4 p.m. on any other day, on the next day that is not a Saturday or holiday;
  - (d) if the notice is delivered by a prescribed method, on the prescribed date.
- (3) The notice requirement in section 14.04 (1) (b) does not apply in relation to a person referred to in that provision if the person’s mailing address, email address, fax number and any applicable information with respect to a prescribed method of delivery is unknown to the director.

CLAUSE 17: ***[Civil Forfeiture Act, section 14.07]***

- clarifies the information that must accompany a notice of dispute;
- makes housekeeping amendments.

CLAUSE 18: ***[Civil Forfeiture Act, section 14.09]*** adds a requirement that the director discharge any registered specified security interests or charges on financed vehicles after the end of the dispute period.

CLAUSE 19: ***[Civil Forfeiture Act, section 14.11]*** is consequential to the addition of section 14.12 by this Bill to the Act.

CLAUSE 20: ***[Civil Forfeiture Act, sections 14.12 to 14.15]***

- requires the director to give notice to specified interest holders when proceeds from the disposition of a financed vehicle exceed a specified amount and sets out the required contents of the notice;
- allows a specified interest holder to claim an interest in the proceeds and sets out the required contents of the claim;
- requires the director to pay an amount from the proceeds to the specified interest holder and provides for the determination of the amount;
- is consequential to amendments made by this Bill to the Act.

**17 Section 14.07 is amended**

**(a) in subsection (1) by adding “or a portion of an interest” after “interest”, and by striking out “filing a notice of dispute with” and substituting “delivering a notice of dispute to”,**

**(b) by repealing subsection (2) (a) and substituting the following:**

(a) sets out particulars of the nature of the interest or the portion of the interest in the subject property held by the person, including the extent of the interest or the portion of the interest in the subject property, ,

**(c) in subsection (2) (c) (i) by striking out “on oath or by solemn affirmation” and by striking out “filing” and substituting “delivering”, and**

**(d) in subsection (2) (d) by striking out “oath or solemn affirmation” and substituting “solemn declaration”.**

**18 Section 14.09 (2) is amended by striking out “and” at the end of paragraph (b) and by adding the following paragraph:**

(b.1) in the case of subject property that is a financed vehicle, discharge the registration of all specified security interests and any other charges or interests in relation to the financed vehicle, and .

**19 Section 14.11 (10) is repealed.**

**20 The following sections are added to Part 3.1:**

**Notice of remaining proceeds**

**14.12 (1)** If the amount of the proceeds resulting from the disposition of a financed vehicle forfeited under section 14.09 exceeds the total of the following amounts, the director must give written notice to each specified interest holder:

(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 following, as the case may be:

(i) the date of an order made under section 11.02 (3) in relation to the vehicle;

(ii) the time of forfeiture under section 14.09;

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

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

CLAUSE 20: *[Civil Forfeiture Act, sections 14.12 to 14.15 – continued]*

- (2) Notice 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 section 14.09, 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 subsection (1) (a) to (c), as applicable, and
    - (iv) the amount of the proceeds in excess of the total of the amounts referred to in subparagraph (iii), and
  - (d) contain any prescribed information.
- (3) Section 14.06 (1) and (2) applies in relation to a notice required to be given under subsection (1) of this section.

**Notice of interest in remaining proceeds**

- 14.13** (1) A specified interest holder may claim an interest in any proceeds in excess of the total of the amounts referred to in section 14.12 (1) (a) to (c) by delivering a notice of interest to the director in accordance with this section.
- (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 section 14.09,
    - (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 British Columbia, and
    - (e) is signed by the person making the solemn declaration and by the commissioner before whom it is made.

CLAUSE 20: *[Civil Forfeiture Act, sections 14.12 to 14.15 – continued]*

- (3) A specified interest holder must 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 section 14.12 (1).
- (4) For the purposes of this section, a notice of interest that is delivered by mail is deemed to have been delivered on the date on which it is mailed.

**If director receives notice of interest**

- 14.14** (1) Subject to subsections (2) and (3), as soon as practicable after receiving a notice of interest under section 14.13, the director must pay to the specified interest holder out of the civil forfeiture account in accordance with section 27 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 section 14.09.
- (2) For the purposes 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) If 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.

**No compensation payable**

- 14.15** Other than an amount a court may order to be paid under section 14.11 or that is payable under section 14.14 (1), no other compensation is payable to any person by the government, the director, a public body or an employee of a public body and no other proceedings may be commenced or maintained to claim compensation from the government, the director, a public body or an employee of a public body as a result of forfeiture under this Part, including a legal proceeding for damages that is commenced or maintained by an uninvolved interest holder.

CLAUSE 21: *[Civil Forfeiture Act, sections 19.06 to 19.09 of Part 4]*

- establishes that, in specified circumstances related to growing cannabis, in the absence of evidence to the contrary, the property is an instrument of unlawful activity;
- provides that if no response or an incomplete response is received from a respondent or responsible officer, the interest in the property held by the respondent is presumed to be proceeds of unlawful activity;
- allows the director to amend the director's pleadings in proceedings and specifies when those amendments may take place;
- allows a court to draw an adverse inference against the respondent in specified circumstances.

**21 The following sections are added to Part 4:**

**Instrument of unlawful activity – growing cannabis**

**19.06** (1) In this section, “**cannabis plant**”, “**dwelling house**”, “**grow**” and “**medical cannabis**” have the same meanings as in the *Cannabis Control and Licensing Act*.

(2) In proceedings under Part 2 or 3 or section 14.11, proof that cannabis plants were found growing at property in any of the following circumstances is proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity:

(a) in the case of real property that is not a dwelling house,

(i) the growing of cannabis plants at the property is not authorized under the *Cannabis Act* (Canada), or

(ii) the number of cannabis plants that are medical cannabis growing at the property is greater than the number authorized under the *Cannabis Act* (Canada);

(b) in the case of a dwelling house, the number of cannabis plants growing at the dwelling house is greater than the sum of the following:

(i) the total number of cannabis plants that are medical cannabis that each adult who ordinarily resides at the dwelling house is authorized under the *Cannabis Act* (Canada) to grow at the dwelling house;

(ii) the number of cannabis plants determined by the following formula:

$$5 \times A$$

where

A = the number of cannabis plants referred to in section 56 (c) of the *Cannabis Control and Licensing Act*.

(3) Section 2.1 of the *Cannabis Control and Licensing Act* applies for the purposes of this section.

**Presumption – failure to comply with unexplained wealth order**

**19.07** (1) Subsection (2) applies if a respondent or responsible officer, as applicable, on or before the latest date on which the respondent or responsible officer was required to comply with any requirement in an unexplained wealth order,

(a) did not provide all of the information and records required to be provided under the order, or

(b) otherwise failed to comply with a requirement of the order.

CLAUSE 21: *[Civil Forfeiture Act, sections 19.06 to 19.09 of Part 4 – continued]*

- (2) In proceedings under section 3 (1) in relation to the whole or a portion of an interest in property it must be presumed, unless the contrary is proved, that the interest or the portion of the interest in the property held by a respondent, if any, is proceeds of unlawful activity.

**Director may amend pleadings as a result of unexplained wealth order**

- 19.08** (1) The director may, within one year of the latest date on which a respondent is required to comply with a requirement in an unexplained wealth order, amend the director’s pleadings in proceedings commenced under Part 2 to address any matters arising from the unexplained wealth order.
- (2) The amendments referred to in subsection (1)
    - (a) may be made whether or not the director has previously amended the director’s pleadings in the proceedings, and
    - (b) may be made
      - (i) at any time before service of the notice of trial in the proceedings, or
      - (ii) after the notice of trial is served, only with leave of the court or written consent of the parties.

**Adverse inference – unexplained wealth order**

- 19.09** (1) Subsection (2) applies in relation to a respondent against whom an unexplained wealth order is made if either of the following apply:
- (a) the respondent or responsible officer does not provide all of the information and records required to be provided under the order, or otherwise fails to comply with a requirement of the order;
  - (b) a court finds that
    - (i) a fact included in a statement provided by the respondent or responsible officer in accordance with the order is not true, or
    - (ii) a record provided by the respondent or responsible officer in accordance with a requirement of the order is not authentic.
- (2) In proceedings under Part 2 or 3 the court may draw an adverse inference against a respondent to whom this subsection applies.

CLAUSE 22: *[Civil Forfeiture Act, Part 4.1]*

- provides that if the director takes any of the specified actions in relation to property, the specified interests in the property are suspended for the specified periods;
- provides that, subject to specified exceptions, if property is forfeited under the Act, the interest of any other person in the property is extinguished;
- provides that if the director takes any of the specified actions in relation to a financed vehicle the specified rights and remedies of an owner of the vehicle are suspended for a specified period;
- provides that, subject to specified exceptions, if a financed vehicle is forfeited under the Act, the specified rights and remedies of an owner of the vehicle are extinguished and specified proceedings may not be brought or maintained.

22 *The following Part is added:*

**PART 4.1 – INTERESTS IN PROPERTY AND FINANCED VEHICLES**

**Division 1 – Suspension and Extinguishment of Interests in Property**

**Definitions**

**20.01** (1) In this Division:

“**existing public body interest**” means the following:

- (a) an interest in property or the whole or a portion of an interest in property that, before the date on which the director takes the action referred to in section 20.02 (3) (a), is
  - (i) held by a public body, and
  - (ii) not registered;
- (b) any right or remedy to which the public body may be entitled in relation to an interest referred to in paragraph (a);

“**public body**” means a public body as defined in the *Freedom of Information and Protection of Privacy Act*;

“**subsequent interest**” means the following:

- (a) an interest in property or the whole or a portion of an interest in property that, after the date on which the director takes the action referred to in section 20.02 (4) (a) to (e), is created or given by an agreement, instrument, rule of law or enactment or otherwise attaches to the property or the whole or the portion of the interest in property;
- (b) any right or remedy to which a person may be entitled in relation to an interest referred to in paragraph (a).

(2) The definitions of “existing public body interest” and “subsequent interest” in subsection (1) do not include the following:

- (a) liens for wages due to workers by their employer;
- (b) liens under section 50 (1) of the *Temporary Foreign Worker Protection Act*;
- (c) liens in relation to amounts owing under the *Income Tax Act*;
- (d) liens under section 16 (2) of the *Public Guardian and Trustee Act*.

**Interests in property suspended**

**20.02** (1) In this section, “**specified period**”,

- (a) for the purposes of subsection (3), means the period
  - (i) beginning on the date that is 60 days after the director takes the action referred to in subsection (3) (a), and

CLAUSE 22: *[Civil Forfeiture Act, Part 4.1 – continued]*

- (ii) ending on the following date, as applicable:
  - (A) the date on which the director removes the notice of interest from the website referred to in section 23.04 (1);
  - (B) if the director withdraws from proceeding under this Act under section 14.08 (a) or discontinues proceedings commenced under section 3, the date of the withdrawal or discontinuance;
  - (C) the date on which a court makes or refuses to make a forfeiture order;
  - (D) the date of forfeiture under Part 3.1, and
- (b) for the purposes of subsection (4), means the period
  - (i) beginning on the date on which the subsequent interest referred to in that subsection is created or given, and
  - (ii) ending on the date referred to in paragraph (a) (ii) of this subsection, as applicable.
- (2) Subsections (3) and (4) apply despite any other enactment and subject to subsections (6) and (7).
- (3) If
  - (a) the director does either of the following in relation to property or the whole or a portion of an interest in property:
    - (i) publishes notice of interest under section 23.04 (1);
    - (ii) commences proceedings under section 3, and
  - (b) a public body that holds an existing public body interest in the property or the whole or the portion of the interest in property does not, within 60 days after the director takes the action referred to in paragraph (a), give notice to the director of the existing public body interest,  
the existing public body interest is suspended during the specified period.
- (4) If the director does any of the following in relation to property or the whole or a portion of an interest in property:
  - (a) publishes notice of interest under section 23.04 (1);
  - (b) initiates forfeiture under Part 3.1;
  - (c) in the case of serial numbered goods, registers notice of forfeiture in the personal property registry under section 14.04 (1) (a);
  - (d) in the case of property other than real property, commences proceedings under section 3;
  - (e) in the case of real property or an interest in real property registered in the land title office, files a notice under section 23 (1),  
any subsequent interests in the property or the whole or the portion of the interest in property are suspended during the specified period.

CLAUSE 22: *[Civil Forfeiture Act, Part 4.1 – continued]*

- (5) On request of the director, a public body that gives notice to the director under subsection (3) (b) must provide to the director information with respect to the amount owing in relation to the existing public body interest referred to in that subsection.
- (6) Despite subsections (3) and (4) and subject to subsection (7),
  - (a) a public body that holds an existing public body interest in the property or the whole or the portion of the interest in property referred to in subsection (3) may, during the specified period referred to in that subsection, do one or both of the following:
    - (i) register the existing public body interest;
    - (ii) commence proceedings in relation to the existing public body interest, and
  - (b) a person who holds a subsequent interest in the property or the whole or the portion of the interest in property referred to in subsection (4) may, during the specified period referred to in that subsection, commence proceedings in relation to the subsequent interest.
- (7) During the specified period referred to in subsection (3) or (4), as applicable, no further steps may be taken and no orders made in the proceedings referred to in subsection (6) (a) (ii) or (b) other than discontinuance of the proceedings.

**Interests in property extinguished**

- 20.03** (1) Despite any enactment and without limiting section 34, if property or the whole or a portion of an interest in property is forfeited to the government under this Act, unless the court otherwise orders under section 6, 13 or 14, any other interest of any person in the property or the whole or the portion of the interest in property is extinguished.
- (2) Subsection (1) does not apply to
- (a) liens in relation to amounts owing under the *Income Tax Act*,
  - (b) liens under section 16 of the *Public Guardian and Trustee Act*,
  - (c) in the case of real property, any of the following that are registered in the land title office:
    - (i) an easement;
    - (ii) a restrictive covenant;
    - (iii) a covenant referred to in section 219 of the *Land Title Act*;
    - (iv) a statutory right of way;
    - (v) a building scheme as defined in section 1 of the *Land Title Act*;
    - (vi) undersurface rights referred to in section 393 of the *Land Title Act*;

CLAUSE 22: *[Civil Forfeiture Act, Part 4.1 – continued]*

- (vii) a party wall agreement as defined under section 223.1 of the *Land Title Act*;
- (viii) a prescribed charge, or
- (d) a prescribed charge or interest.

## **Division 2 – Financed Vehicles**

### **Definition and application**

- 20.04** (1) In this Part, “**specified period**” means the period
- (a) beginning on the date that the director takes an action referred to in subsection (2) (a) or (b), as applicable, and
  - (b) ending on the following date, as applicable:
    - (i) if the director withdraws from proceeding under the Act under section 14.08 (a) or discontinues proceedings commenced under section 3, the date of the withdrawal or discontinuance;
    - (ii) the date on which a court makes or refuses to make a forfeiture order;
    - (iii) the date of forfeiture under Part 3.1.
- (2) Section 20.05 applies if the director does either of the following in relation to a financed vehicle or the whole or a portion of an interest in a financed vehicle:
- (a) registers notice of forfeiture in the personal property registry under section 14.04 (1) (a);
  - (b) commences proceedings under section 3.

### **Rights, remedies and legal proceedings suspended during specified period**

- 20.05** (1) All rights or remedies of the owner of a financed vehicle under a security agreement or section 62 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.

CLAUSE 22: *[Civil Forfeiture Act, Part 4.1 – continued]*

CLAUSE 23: *[Civil Forfeiture Act, section 22]*

- modifies the authority of the director to enter into information-sharing agreements;
- modifies the requirements for public bodies and other organizations to provide information to the director;
- removes gendered language.

**Interests extinguished and proceedings limited after forfeiture**

- 20.06** (1) If a financed vehicle or the whole or a portion of an interest in a financed vehicle is forfeited to the government under this Act, all rights or remedies of the owner of the financed vehicle under a security agreement or section 62 of the *Personal Property Security Act* are extinguished
- (a) on and after the date the forfeiture order is made under section 5, or
  - (b) at the time of the forfeiture under section 14.09.
- (2) Subsection (1) does not apply if the court otherwise orders under section 6 or 13.
- (3) Without limiting section 14.15, 20.05 (2) or 22.01 (1), if 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 the forfeiture order is made under section 5 or the time of the forfeiture under section 14.09, 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 14.11;
  - (b) delivering a notice of interest under section 14.13;
  - (c) an application for judicial review of a decision of the director under this Act;
  - (d) a legal proceeding for damages brought by a party to a security agreement against another party to the agreement;
  - (e) 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.

**23 Section 22 is amended**

**(a) in subsection (1) by adding the following definition:**

**“specified organization”** means an organization as defined in section 1 of the *Personal Information Protection Act* that is prescribed or is in a prescribed class. ,

CLAUSE 23: *[Civil Forfeiture Act, section 22 – continued]*

- (b) in subsection (4) by striking out “his or her powers or perform his or her functions and duties” and substituting “the director’s powers or perform the director’s functions and duties”,**
- (c) in subsection (4) by adding the following paragraph:**
- (c) a specified organization. ,
- (d) in subsection (5) by striking out “the regulations” and substituting “subsection (5.1)” and by repealing paragraph (a) and substituting the following:**
- (a) in the custody or control of
    - (i) a public body, or
    - (ii) a specified organization, and ,
- (e) in subsection (5) (b) by striking out “his or her powers or perform his or her functions and duties” and substituting “the director’s powers or perform the director’s functions and duties”,**
- (f) by adding the following subsections:**
- (5.1) Subsection (5) does not apply to the following information:
    - (a) information that must not be disclosed under section 51 of the *Evidence Act*;
    - (b) information that is subject to solicitor-client privilege;
    - (c) information that is required to be kept confidential under
      - (i) an enactment of Canada, or
      - (ii) an agreement with the government of Canada, a province or another jurisdiction in or outside Canada;
    - (d) in the case of information in the custody or control of a public body or specified organization that has entered into an information-sharing agreement with the director under subsection (4), information that may not be shared under the terms of the agreement;
    - (e) prescribed information.
  - (6.1) A specified organization that has custody or control of information to which the director is entitled under subsection (5) must, within 30 days after receiving a request for the information, disclose that information to the director. , **and**
- (g) in subsection (7) by striking out everything after “other enactment”.**

CLAUSE 24: *[Civil Forfeiture Act, section 22.001]* prohibits a relevant organization from disclosing specified information to any person for a six-month period after a request for personal information is made by the director.

CLAUSE 25: *[Civil Forfeiture Act, section 22.002]*

- prohibits the director from using or disclosing specified information, subject to specified exceptions;
- provides that the director must not be required to give evidence relating to information or records obtained under the Act.

**24 The following section is added:**

**Requirement to not disclose request**

- 22.001** (1) In this section, “**relevant organization**” means a specified organization as defined in section 22 that is prescribed or in a prescribed class.
- (2) If the director requests that a relevant organization disclose an individual’s personal information to the director, the relevant organization must not, during the six-month period after the organization receives the request, disclose to any person, other than a person in respect of which solicitor-client privilege exists, either of the following:
- (a) that the director has requested the relevant organization to disclose the individual’s personal information;
  - (b) that the relevant organization has disclosed the individual’s personal information to the director.
- (3) To the extent of any inconsistency or conflict with section 23 (1) (c) of the *Personal Information Protection Act*, this section applies despite that Act.

**25 The following section is added:**

**Information sharing**

- 22.002** (1) In this section, “**specified information**” means information and records obtained by or on behalf of the director
- (a) in proceedings commenced under section 3, other than information or records obtained under section 22 (4), (6) or (6.1),
  - (b) pursuant to an order of the court, or
  - (c) under section 22.02,
- but does not include information that is available to the public.
- (2) Despite any other enactment or law other than a prescribed enactment, the director must not use or disclose specified information except as authorized by this section.
- (3) The director may use or disclose specified information as follows:
- (a) for the purposes of administering this Act, including any proceedings under this Act;
  - (b) for the purposes of a prosecution for perjury or for proceedings for contempt;
  - (c) in accordance with an order of the court made on application by the director in proceedings under this Act.

CLAUSE 25: *[Civil Forfeiture Act, section 22.002 – continued]*

CLAUSE 26: *[Civil Forfeiture Act, section 22.01]* makes an amendment to a cross-reference related to the other amendments made by this Bill to the Act.

CLAUSE 27: *[Civil Forfeiture Act, section 22.02]* strikes out and replaces a word to modify a test set out in the section.

CLAUSE 28: *[Civil Forfeiture Act, section 23]* allows the director to register notice that proceedings have commenced under the Act in the personal property registry for serial numbered goods.

CLAUSE 29: *[Civil Forfeiture Act, section 23.01]* is consequential to amendments made by this Bill to the Act.

CLAUSE 30: *[Civil Forfeiture Act, Division 4 to Part 5]*

- provides for the director to publish on a website notice in relation to property and to give written notice to specified persons;
- deems the director to be lawfully entitled to possession of property if notice requirements are met;
- allows for a person who claims an interest in the property to deliver a notice of dispute to the director and sets out the process for the director when a notice of dispute is received.

- (4) Despite any other enactment or law, the director must not be required, in connection with any legal proceedings, to give or produce evidence relating to any information or records obtained by or on behalf of the director under this Act.
- (5) Subsection (4) does not apply in respect of legal proceedings referred to in subsection (3) (a) or (b).
- (6) To the extent of any inconsistency or conflict with sections 32 [*use of personal information*] and 33 [*disclosure of personal information*] of the *Freedom of Information and Protection of Privacy Act*, this section applies despite that Act.

26 ***Section 22.01 (3) is amended by striking out “as defined in section 12”.***

27 ***Section 22.02 (2) (a) is amended by striking out “believe” and substituting “suspect”.***

28 ***Section 23 (2) is repealed and the following substituted:***

- (2) After commencing proceedings under section 3 that relate to personal property that is serial numbered goods or the whole or a portion of an interest in personal property that is serial numbered goods, the director may register, in the prescribed manner, in the personal property registry notice that the proceedings commenced may affect the personal property or the whole or the portion of the interest in the personal property referred to in the notice.

29 ***Section 23.01 is amended***

***(a) in subsection (1) by repealing the definition of “public body”,***

***(b) in subsection (2) by striking out “serve” and substituting “deliver”, and***

***(c) in subsection (4) by striking out “served on” and substituting “delivered to” and by striking out “served” wherever it appears and substituting “delivered”.***

30 ***The following Division is added to Part 5:***

#### **Division 4 – Director Entitled to Possession of Property**

##### **Definitions**

**23.02** In this Division:

**“notice of interest”** means notice of interest published under section 23.04 (1);

**“subject property”** means property described in section 23.03 and to which this Division applies;

CLAUSE 30: *[Civil Forfeiture Act, Division 4 to Part 5 – continued]*

“**withdraw**”, in relation to a notice of interest, means to remove the notice of interest from the website referred to in section 23.04 (1).

**Application of this Division**

**23.03** This Division applies to property if

- (a) the director has reason to suspect that
  - (i) the whole or a portion of an interest in property, other than real property, is proceeds of unlawful activity, or
  - (ii) property, other than real property, is an instrument of unlawful activity, and
- (b) the property referred to in paragraph (a) (i) or (ii) is in British Columbia and is in the possession of a public body.

**Notice of interest**

**23.04** (1) The director may, in accordance with this section, publish notice of interest in relation to subject property on a publicly accessible website maintained by or on behalf of the government.

- (2) If the director publishes notice of interest in relation to subject property, the director must,
  - (a) subject to subsection (4), within 40 days after notice is published, give written notice to each of the following:
    - (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;
    - (iii) a prescribed person or a person in a prescribed class, and
  - (b) within 120 days after notice is published,
    - (i) commence proceedings under section 3 in relation to the property,
    - (ii) initiate forfeiture in relation to the property under Part 3.1, or
    - (iii) withdraw the notice of interest.
- (3) Notice under subsections (1) and (2) (a) must
  - (a) describe the subject property,
  - (b) state that under section 23.05 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.

CLAUSE 30: *[Civil Forfeiture Act, Division 4 to Part 5 – continued]*

- (4) Section 14.06 (1), (2) and (3) applies in respect of a written notice required to be given under subsection (2) (a) of this section.

**Director deemed to be entitled to possession**

- 23.05** (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 in the following circumstances:
- (a) the director withdraws the notice of interest in relation to the property;
  - (b) the director fails to comply with section 23.04 (2) (a) or (b) within the period referred to in that section, as applicable;
  - (c) if 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 subsection (2) (b) or (c) (i) or (ii), the director must withdraw the notice of interest in relation to the subject property.

**Notice of dispute**

- 23.06** (1) A person who claims an interest in subject property may dispute a notice of interest by delivering a notice of dispute 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 the following:
    - (i) the name of the person disputing the notice of interest under this section;
    - (ii) the person's address and, if available, fax number and e-mail address;
    - (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 section 23.04 (2) (a).
- (4) For the purposes of this section, a notice of dispute that is delivered by mail is deemed to have been delivered on the date on which it was mailed.

CLAUSE 30: *[Civil Forfeiture Act, Division 4 to Part 5 – continued]*

CLAUSE 31: *[Civil Forfeiture Act, section 23.041]* provides for the director to register notice in the personal property registry.

CLAUSE 32: *[Civil Forfeiture Act, section 27]* amends the purposes for which the director may make payments out of the civil forfeiture account.

CLAUSE 33: *[Civil Forfeiture Act, section 35]* provides that there is no limitation period for the director to commence forfeiture proceedings under the Act.

**If director receives notice of dispute**

**23.07** Within 60 days of receiving a notice of dispute under section 23.06, the director must

- (a) do one of the following:
  - (i) commence proceedings under section 3 in relation to the subject property;
  - (ii) initiate forfeiture under Part 3.1 in relation to the subject property;
  - (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 paragraph (a) of this section.

**31** *The following section is added:*

**Filing notice in the personal property registry**

- 23.041** (1) Without limiting section 23 (2), if the director publishes 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 23.05 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) Section 23 (3) applies in respect of the notice referred to in subsection (1) of this section.
- (3) If 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 must cancel the notice registered in the personal property registry.

**32** *Section 27 (1) is amended by repealing paragraph (d.1) substituting the following:*

- (d.1) for the purposes of section 14.14 (1);
- (d.2) compliance with an order of the court under section 14.11 (8); .

**33** *Section 35 (1) is repealed and the following substituted:*

- (1) There is no limitation period for the director
  - (a) commencing proceedings under section 3, or
  - (b) initiating forfeiture in relation to property under Part 3.1.

CLAUSE 34: *[Civil Forfeiture Act, section 35.1]* provides for the application of the Supreme Court Civil Rules to proceedings under the Act.

CLAUSE 35: *[Civil Forfeiture Act, section 38]* is consequential to amendments made by this Bill to the Act.

CLAUSE 36: *[Transition – definitions]* provides a transitional rule in relation to the definitions of “instrument of unlawful activity” and “proceeds of unlawful activity” as amended by this Bill.

CLAUSE 37: *[Transition – section 4.01 of Civil Forfeiture Act]* provides a transitional rule in relation to section 4.01 of the Act as amended by this Bill.

**34** *The following section is added:*

**Rules of Court**

**35.1** The Supreme Court Civil Rules apply to proceedings under this Act to the extent that those rules are not in conflict with this Act.

**35** *Section 38 is amended*

*(a) in subsection (2) by repealing paragraphs (e.1), (f.1), (k.1), (m) and (m.1), and*

*(b) in subsection (2) by adding the following paragraph:*

(p) respecting any other matter for which regulations are contemplated by this Act. , *and*

*(c) by repealing subsection (3) (a) and substituting the following:*

(a) make different regulations for different classes of persons, property, unlawful activities, circumstances or other matters; .

**Transitional Provisions**

**Transition – definitions**

**36** (1) Subject to subsection (2) of this section, the definitions of “instrument of unlawful activity” and “proceeds of unlawful activity” in section 1 of the *Civil Forfeiture Act*, as amended by this Act, apply to all proceedings under Part 2 or 3 or section 14.11 of the *Civil Forfeiture Act*, whether or not the proceeding was commenced before the date this section comes into force.

(2) The definitions of “instrument of unlawful activity” and “proceeds of unlawful activity” in section 1 of the *Civil Forfeiture Act*, as amended by this Act, do not apply to a proceeding described in subsection (1) of this section if a trial under Part 12 of the Supreme Court Civil Rules

(a) began before the date this section comes into force, or

(b) begins within 12 months after the date this section comes into force.

**Transition – section 4.01 of *Civil Forfeiture Act***

**37** Section 4.01 [*response must identify interest in property*] of the *Civil Forfeiture Act*, as amended by this Act, applies to all proceedings under Part 2 of the *Civil Forfeiture Act*, whether or not the proceeding was commenced before the date this section comes into force.

CLAUSE 38: *[Transition – presumption relating to growing cannabis]* provides a transitional rule in relation to the addition of section 19.06 by this Bill to the Act.

CLAUSE 39: *[Transition – section 20.02 of Civil Forfeiture Act]* provides transitional rules in relation to the addition of section 20.02 by this Bill to the Act.

**Transition – presumption relating to growing cannabis**

- 38** (1) Subject to subsection (2) of this section, section 19.06 of the *Civil Forfeiture Act*, as enacted by this Act, applies to all proceedings under Part 2 or 3 or section 14.11 of the *Civil Forfeiture Act*, whether or not the proceeding was commenced before the date this section comes into force.
- (2) Section 19.06 of the *Civil Forfeiture Act*, as enacted by this Act, does not apply to a proceeding described in subsection (1) of this section if a trial under Part 12 of the Supreme Court Civil Rules
- (a) began before the date this section comes into force, or
  - (b) begins within 12 months after the date this section comes into force.

**Transition – section 20.02 of *Civil Forfeiture Act***

- 39** (1) In this section:
- “**Act**” means the *Civil Forfeiture Act*;
  - “**existing public body interest**” means the following:
    - (a) an interest in property or the whole or a portion of an interest in property that, before the date on which the director takes the action referred to in subsection (4) (a), is
      - (i) held by a public body, and
      - (ii) not registered;
    - (b) any right or remedy to which the public body may be entitled in relation to an interest referred to in paragraph (a);
  - “**public body**” means a public body as defined in section 20.02 (1) of the Act;
  - “**subsequent interest**” means the following:
    - (a) an interest in property or the whole or a portion of an interest in property that, after the date on which the director takes the action referred to in subsection (5), is created or given by an agreement, instrument, rule of law or enactment or otherwise attaches to the property or the whole or the portion of the interest in property;
    - (b) any right or remedy to which a person may be entitled in relation to an interest referred to in paragraph (a).
- (2) Section 20.01 (2) of the Act applies in relation to the definitions of “existing public body interest” and “subsequent interest” in subsection (1) of this section.
- (3) This section does not apply in relation to an existing public body interest or a subsequent interest if, before the date this section comes into force, proceedings have been commenced in relation to the existing public body interest or subsequent interest.

CLAUSE 39: *[Transition – section 20.02 of Civil Forfeiture Act – continued]*

CLAUSE 40: *[Transition – section 20.04 of Civil Forfeiture Act]* provides transitional rules in relation to the addition of section 20.04 by this Bill to the Act.

- (4) If
- (a) the director, before the date this section comes into force, takes an action referred to in section 20.02 (3) (a) of the Act in relation to property or the whole or a portion of an interest in property, and
  - (b) a public body that holds an existing public body interest in the property or the whole or the portion of the interest in property does not, within 60 days after the date this section comes into force, give notice to the director of the existing public body interest,
- the existing public body interest is suspended during the period
- (c) beginning on the date that is 60 days after the date this section comes into force, and
  - (d) ending on the date referred to in paragraph (a) (ii) of the definition of “specified period” in section 20.02 (1) of the Act, as applicable.
- (5) If the director, before the date this section comes into force, takes an action referred to in section 20.02 (4) of the Act in relation to property or the whole or a portion of an interest in property, any subsequent interests in the property or the whole or the portion of the interest in property are suspended during the period
- (a) beginning on the date this section comes into force, and
  - (b) ending on the date referred to in paragraph (a) (ii) of the definition of “specified period” in section 20.02 (1) of the Act, as applicable.
- (6) Section 20.02 (5) of the Act applies to a public body that gives notice to the director under subsection (4) of this section.
- (7) Section 20.02 (6) and (7) of the Act applies in respect of an existing public body interest or a subsequent interest to which this section applies and for that purpose
- (a) a reference to a specified period in section 20.02 (6) (a) is to be read as a reference to the period referred to in subsection (4) of this section, and
  - (b) a reference to a specified period in section 20.02 (6) (b) is to be read as a reference to the period referred to in subsection (5) of this section.

**Transition – section 20.04 of *Civil Forfeiture Act***

- 40** (1) In this section, “**specified period**” means the period
- (a) beginning on the date that this section comes into force, and
  - (b) ending on the following date, as applicable:
    - (i) if the director discontinues proceedings commenced under section 3 of the *Civil Forfeiture Act*, the date of the discontinuance;
    - (ii) the date on which a court makes or refuses to make a forfeiture order.

CLAUSE 40: *[Transition – section 20.04 of Civil Forfeiture Act – continued]*

CLAUSE 41: *[Transition – section 20.06 (3) of Civil Forfeiture Act]* provides a transitional rule in relation to the addition of section 20.06 (3) by this Bill to the Act.

CLAUSE 42: *[Transition – limitation period]* provides a transitional rule in relation to section 35 (1) of the Act as amended by this Bill.

CLAUSE 43: *[Business Practices and Consumer Protection Act, section 108]* makes a consequential amendment related to reporting agencies providing credit information.

- (2) This section applies if the director, before the date this section comes into force, commences proceedings under section 3 in relation to a financed vehicle or the whole or a portion of an interest in a financed vehicle.
- (3) All rights or remedies of the owner of a financed vehicle under a security agreement or section 62 of the *Personal Property Security Act* are suspended during the specified period.
- (4) 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.

**Transition – section 20.06 (3) of *Civil Forfeiture Act***

- 41** Section 20.06 (3) of the *Civil Forfeiture Act*, as enacted by this Act, applies in relation to all legal proceedings referred to in paragraph (a) or (b) of that section, whether or not the proceeding was commenced before the date this section comes into force.

**Transition – limitation period**

- 42** Section 35 (1) of the *Civil Forfeiture Act*, as enacted by this Act, applies to all proceedings under Part 2 or 3 or section 14.11 of the *Civil Forfeiture Act* and the forfeiture of property under Part 3.1 of that Act, whether or not the proceeding was commenced, or forfeiture initiated, before the date this section comes into force.

**Consequential Amendments**

- 43** *Section 108 (1) of the Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2, is amended by adding the following paragraph:*
- (c.1) in response to a request made under section 22 (6.1) of the *Civil Forfeiture Act*, .



**Commencement**

**44** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 <b>Provisions of Act</b>	Column 2 <b>Commencement</b>
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Section 24	By regulation of the Lieutenant Governor in Council
3	Section 28	By regulation of the Lieutenant Governor in Council
4	Section 31	By regulation of the Lieutenant Governor in Council