

BILL

No. 54

An Act to amend *The Seizure of Criminal Property Act, 2009*

(Assented to _____)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Seizure of Criminal Property Amendment Act, 2012*.

S.S. 2009, c.S-46.002 amended

2 *The Seizure of Criminal Property Act, 2009* is amended in the manner set forth in this Act.

Section 2 amended

3(1) **The following clause is added after clause 2(e):**

“(e.1) **‘defendant’** means, in the case of an application pursuant to this Act brought by statement of claim, the person named as defendant in the statement of claim and includes, for the purposes of section 6, a possible defendant”.

(2) **Clause 2(i) is amended:**

(a) **by repealing subclause (i) and substituting the following:**

“(i) has been used to engage in unlawful activity that, in turn, resulted in or was likely to result in or was intended to result in the acquisition or production of property or in bodily harm to a person”; **and**

(b) **in subclause (ii) by striking out “serious”.**

(3) **Clause 2(t) is repealed and the following substituted:**

“(t) **‘respondent’** means, in the case of an application pursuant to this Act brought by notice of motion, the person named as respondent in the notice of motion and includes, for the purposes of section 6, a possible respondent”.

Section 3 amended

4(1) **The following subsection is added after subsection 3(1):**

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

(2) **Subsection 3(3) is repealed and the following substituted:**

“(3) An application for a forfeiture order must:

(a) describe the property for which the forfeiture order is sought with sufficient detail to make it readily identifiable; and

- (b) name the following as respondents or defendants, as the case may be:
 - (i) any person who is in possession of the property;
 - (ii) any person with a prior registered interest in the property;
 - (iii) any other person the director has reason to believe has an interest in the property”.

Section 6 amended

5(1) Clause 6(1)(a) is repealed and the following substituted:

“(a) an order authorizing the director to investigate and inventory the property of the person named in the *ex parte* application as the respondent or defendant”.

(2) Subsection 6(5) is amended by striking out “30” and substituting “60”.

(3) Clause 6(6)(b) is repealed and the following substituted:

“(b) for a further period to be determined by the court or until there is a further order of the court”.

(4) The following subsections are added after subsection 6(10):

“(11) On oral or written application by the respondent or defendant, the court shall order that any affidavit filed by or on behalf of the respondent or defendant for the purpose of obtaining an order pursuant to this section or section 7 shall be sealed and shall not be reviewable by anyone except the court, a party to the proceedings or counsel to a party to the proceedings for the purpose of the proceedings.

“(12) On application by the director, respondent or defendant, the court may vary, amend or rescind an order granted pursuant to subsection (11)”.

Section 12 amended

6 Clause 12(b) is amended by adding “or that a person was not charged with an offence,” after “or that such a charge was withdrawn or stayed,”.

New section 17.1

7 The following section is added after section 17:

“Proceedings by statement of claim

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

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

- (a) the claim may be noted for default of defence and no defence is permitted to be filed unless the court is satisfied that it is clearly in the interests of justice to allow a defence to be filed;
- (b) if a claim has been noted for default, the director may apply *ex parte* to the court for judgment and the court shall not require the director to provide any notification or service of the application for judgment on a defendant; and

(c) in considering an *ex parte* application made pursuant to clause (b), the court shall:

(i) for the purposes of subsection 7(1), consider that the facts set forth in the statement of claim are proven to be true; and

(ii) if satisfied that the property is proceeds of unlawful activity or an instrument of unlawful activity, grant a forfeiture order pursuant to subsection 7(1) together with any other relief the court considers appropriate.

(3) If a statement of defence is filed in accordance with *The Queen's Bench Rules*, the defendant is compellable to attend an examination for discovery and to answer all questions broadly relevant to the proceedings.

(4) The director and any person acting for or under the direction of the director pursuant to this Act is not a compellable witness for the purpose of an examination for discovery.

(5) If a defendant is examined for discovery, the transcript of the discovery is, on filing with the court, deemed to be sealed and not reviewable by anyone except the court, a party to the proceedings or counsel to a party to the proceedings for the purpose of the proceedings.

(6) The director may satisfy the requirements of section 13 by filing a certificate at the time of trial or at the time the application is made pursuant to clause (2)(b) setting out the prior registered interest in the property and any other interest the director has reason to believe exists.

(7) *The Queen's Bench Rules* with respect to expedited or simplified proceedings do not apply to applications made pursuant to this Act unless agreed to by the director”.

New section 35.1

8 The following section is added after section 35:

“Limitation of proceedings

35.1 Notwithstanding *The Limitations Act*, an application pursuant to this Act cannot be commenced after two years from the day on which the director becomes satisfied that property is proceeds of unlawful activity or an instrument of unlawful activity”.

New section 38.1

9 The following section is added after section 38:

“Evidence based on information and belief

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

Coming into force

10 This Act comes into force on assent.

SECOND SESSION

**Twenty-seventh
Legislature**

SASKATCHEWAN

B I L L

No. 54

An Act to amend *The Seizure of
Criminal Property Act, 2009*

Received and read the

First time

Second time

Third time

And passed

Honourable Gordon Wyant
