

# BILL

No. 150

## 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, 2018*.

### SS 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 10 amended

3(1) **Subclause 10(1)(a)(i) is amended by striking out “section 4 or 5” and substituting “section 4, 5 or 10.2”.**

(2) **Clause 10(2)(a) is amended by striking out “section 4 or 5” and substituting “section 4, 5 or 10.2”.**

### New section 10.01

4 **The following section is added after section 10:**

#### **“Failure of respondent or defendant to comply**

**10.01** A respondent or a defendant mentioned in subsection 3(3), other than a person listed in subsection 9(1), is deemed to waive his or her right to property if the respondent or defendant fails, without reasonable excuse, to do any of the following:

- (a) to attend or be represented at a hearing or other proceeding respecting an application for a forfeiture order with respect to the subject property;
- (b) to attend for questioning in accordance with subsection 17.1(3) with respect to the subject property;
- (c) to attend for cross-examination on an affidavit in accordance with subsection 17.1(8) with respect to the subject property;
- (d) to answer any question put to the respondent or defendant during questioning or cross-examination;
- (e) to provide, as directed by the court, or pursuant to an undertaking given by the respondent or defendant, any information or document, whether in writing or in electronic form”.

**Section 10.2 amended**

**5(1) Clause 10.2(1)(e) is amended by adding “subject to subsection (1.1),” before “no other person”.**

**(2) The following subsection is added after subsection 10.2(1):**

“(1.1) Notwithstanding clause (1)(e), the director may commence administrative forfeiture proceedings against property alleged to be proceeds of unlawful activity if every person who has a prior registered interest in the property:

(a) is a person listed in subsection 9(1); and

(b) provides to the director a written acknowledgment that the person waives all rights to the property that he or she may otherwise have pursuant to this Act”.

**Section 10.3 amended**

**6(1) Subsection 10.3(3) is amended by striking out “A notice” and substituting “Subject to subsection (6), a notice”.**

**(2) The following subsections are added after subsection 10.3(5):**

“(6) If a person failed to provide an address to the law enforcement agency that seized the subject property, or if the director is unable to verify the address given, the notice to be given by the director pursuant to this section may be given by publishing the notice on the ministry’s website, to the attention of the person from whom the property was seized.

“(7) A notice that is published in accordance with subsection (6) must meet the requirements set out in subsection (2).

“(8) A notice pursuant to this section that is published on the ministry’s website in accordance with subsection (6) is deemed to have been served on the tenth business day after the date on which the notice was first published”.

**Section 14 amended**

**7 Section 14 is amended in the portion preceding clause (a) by striking out “In an application for forfeiture of property” and substituting “In an application for a forfeiture order, or for an interim order pursuant to section 6, respecting property”.**

**Section 15 amended**

**8 Section 15 is amended in the portion preceding clause (a) by striking out “In an application for forfeiture of property” and substituting “In an application for a forfeiture order, or for an interim order pursuant to section 6, respecting property”.**

**Section 16 amended**

**9 Section 16 is amended:**

(a) **by adding “, or for an interim order pursuant to section 6,” after “In an application for a forfeiture order”; and**

(b) **by striking out “serious”.**

**New sections 16.1 to 16.4****10 The following sections are added after section 16:****“Presumption re community safety order**

**16.1** In an application for a forfeiture order, or for an interim order pursuant to section 6, respecting property that is alleged to be an instrument of unlawful activity, evidence that a community safety order pursuant to *The Safer Communities and Neighbourhoods Act* has previously been made with respect to the property is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity.

**“Presumption re vehicle-related offence**

**16.2(1)** In this section:

**‘vehicle’** means:

- (a) a motor vehicle as defined in *The Traffic Safety Act*;
- (b) a snowmobile as defined in *The Snowmobile Act*; or
- (c) any other conveyance as defined in section 320.11 of the *Criminal Code*;

**‘vehicle-related offence’** means:

- (a) before the coming into force of Part VIII.1 of the *Criminal Code*, an offence contrary to subsection 253(1), paragraph 253(3)(a) or (c), or section 254 of the *Criminal Code*;
- (b) on and after the coming into force of Part VIII.1 of the *Criminal Code*, an offence contrary to subsection 320.14(1), (2) or (3) or section 320.15 of the *Criminal Code*; and
- (c) any other prescribed offence.

(2) In an application for a forfeiture order, or for an interim order pursuant to section 6, respecting property that is alleged to be an instrument of unlawful activity, evidence of the following is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity:

- (a) the property is a vehicle;
- (b) the vehicle was or is likely to be used to engage in a vehicle-related offence; and
- (c) the vehicle is owned by, and is in the care, control or possession of, a person:
  - (i) whose driver’s licence has been suspended pursuant to *The Traffic Safety Act* at least twice in the preceding 10 years for a vehicle-related offence; or
  - (ii) in any other prescribed circumstance.

**“Presumption re firearm associated with gangs or terrorism**

**16.3(1)** In this section:

**‘firearm’** means a prohibited firearm or a restricted firearm as defined in Part III of the *Criminal Code*;

**‘gang’** means:

- (a) a group of individuals, usually identified by a group name or designation, who associate with each other for a criminal purpose; or
- (b) any prescribed gang or prescribed person;

**‘person’** includes a partnership, limited partnership or unincorporated organization of persons.

(2) In an application for a forfeiture order, or for an interim order pursuant to section 6, respecting property that is alleged to be an instrument of unlawful activity, evidence of the following is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity:

- (a) a firearm was located on or in the property or had been on or in the property; and
- (b) the firearm was or had been in the possession of an individual who is a member of or affiliated with:
  - (i) a gang; or
  - (ii) a listed entity as defined in section 83.01 of the *Criminal Code*.

**“Presumption re sexual offence**

**16.4(1)** In this section, **‘specified sexual offence’** means an offence contrary to:

- (a) any of the following provisions of the *Criminal Code*:
  - (i) section 151 (Sexual interference);
  - (ii) section 152 (Invitation to sexual touching);
  - (iii) section 153 (Sexual exploitation);
  - (iv) section 153.1 (Sexual exploitation of person with disability);
  - (v) subsection 160(3) (Bestiality in presence of or by child);
  - (vi) section 163.1 (Child pornography);
  - (vii) section 170 (Parent or guardian procuring sexual activity);
  - (viii) section 171 (Householder permitting prohibited sexual activity);
  - (ix) section 171.1 (Making sexually explicit material available to child);
  - (x) section 172.1 (Luring a child);
  - (xi) section 172.2 (Agreement or arrangement—sexual offence against child);

- (xii) section 271 (Sexual assault);
- (xiii) subsection 286.1(2) (Obtaining sexual services for consideration from person under 18 years);
- (xiv) subsection 286.2(2) (Material benefit from sexual services provided by person under 18 years);
- (xv) subsection 286.3(2) (Procuring—person under 18 years); or

(b) any other prescribed provision of the *Criminal Code*.

(2) In an application for a forfeiture order, or for an interim order pursuant to section 6, respecting property that is alleged to be an instrument of unlawful activity, evidence that a specified sexual offence occurred on or in the property is admissible in evidence as proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity”.

#### **New section 17**

**11 Section 17 is repealed and the following substituted:**

##### **“Presumption re criminal organization offence**

**17** In an application for a forfeiture order, or for an interim order pursuant to section 6, evidence that a person has been found guilty or convicted of a criminal organization offence as defined in section 2 of the *Criminal Code* is admissible in evidence as proof, in the absence of evidence to the contrary, that the person is a member of a criminal organization”.

#### **Section 17.1 amended**

**12(1) Subsections 17.1(3) to (5) are repealed and the following substituted:**

“(3) If a statement of defence is filed in accordance with *The Queen’s Bench Rules*, the defendant is compellable to attend for questioning 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 questioning.

“(5) If a defendant is questioned in accordance with subsection (3), the transcript of the questioning is, on filing with the court, deemed to be sealed and not reviewable by anyone except the court, a party to the proceedings or counsel to a party to the proceedings for the purpose of the proceedings”.

**(2) The following subsections are added after subsection 17.1(7):**

“(8) The director may, at his or her discretion, cross-examine a person purporting to have signed an affidavit with respect to a proceeding commenced pursuant to this Act.

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

**Section 18 amended****13 The following subsections are added after subsection 18(4):**

“(5) Subject to any order made pursuant to clause 6(1)(e), property that is subject to an order made pursuant to section 6 restraining property, or that is subject to a notice mentioned in subsection 10.5(1), remains subject to restraint until the latest of the following dates:

- (a) the date on which the appeal period mentioned in subsection (2) expires;
- (b) the date on which the Court of Appeal grants leave to appeal;
- (c) if the Court of Appeal grants leave to appeal, the date on which the appeal is determined or abandoned.

“(6) Subsection (5) is not to be interpreted as granting to any person a right to appeal that is not otherwise granted pursuant to this Act”.

**Section 23 amended**

**14(1) Subsection 23(2) is amended in the portion preceding clause (a) by striking out “or a local authority” and substituting “, local authority or other source”.**

**(2) Subsection 23(3) is amended in the portion preceding clause (a) by striking out “or a local authority” and substituting “, local authority or other source”.**

**(3) Subsection 23(4) is amended by striking out “or a local authority” and substituting “, local authority or other source”.**

**New section 23.1****15 The following section is added after section 23:****“Information from registered interest holders**

**23.1(1) In this section:**

**‘registered interest’ means:**

(a) with respect to real property, an interest registered against the property in accordance with *The Land Titles Act, 2000* or any former *Land Titles Act*; and

(b) with respect to personal property, a security interest registered against the property in accordance with *The Personal Property Security Act, 1993* or any former *Personal Property Security Act*;

**‘registered interest holder’ means a person who has a registered interest in property.**

(2) For any of the purposes set out in clauses 23(2)(a) to (c), the director is authorized to collect information from a registered interest holder concerning the registered interest that the holder has in a specific property.

(3) A registered interest holder is authorized and required to disclose information to the director concerning the registered interest that the holder has in a specific property for a purpose set out in clauses 23(2)(a) to (c).

(4) Notwithstanding subsection (3), a registered interest holder is not required to disclose to the director information that is subject to solicitor-client privilege or any other privilege”.

**New section 26.1****16 The following section is added after section 26:****“Proceedings pursuant to agreements**

**26.1(1)** A proceeding may be commenced under this Act pursuant to an agreement entered into with another government pursuant to section 26.

(2) Subject to the regulations, property that is forfeited to the Crown pursuant to a proceeding mentioned in subsection (1) may be:

- (a) delivered to the other government, in whole or in part; or
- (b) retained in Saskatchewan and dealt with in accordance with this Act”.

**New section 40****17 Section 40 is repealed and the following substituted:****“Regulations**

**40** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) respecting the costs and expenses that the director may claim for bringing an application for forfeiture or commencing administrative forfeiture proceedings, including any costs and expenses incurred in any proceedings leading to the forfeiture;
- (c) for the purposes of clause 9(1)(g), prescribing rights and interests;
- (d) for the purposes of clause 9(1)(h), prescribing a class of persons;
- (e) for the purposes of Part II.1, prescribing agencies or organizations as law enforcement agencies;
- (f) for the purposes of clause 10.2(1)(d), prescribing the maximum fair market value of property;
- (g) prescribing forms for the purposes of this Act;
- (h) respecting the process for and legal effect of any registration, amendment or removal of any interest authorized by this Act in the land titles registry or the personal property registry;
- (i) for the purposes of section 16.2:
  - (i) prescribing additional offences that fall under the definition of a vehicle-related offence; and
  - (ii) prescribing additional circumstances pursuant to subclause (2)(c)(ii) of that section;
- (j) for the purposes of section 16.3, prescribing gangs and persons;
- (k) for the purposes of clause 16.4(1)(b), prescribing additional provisions of the *Criminal Code* that fall under the definition of a specified sexual offence;
- (l) respecting proceedings commenced pursuant to section 26.1;

- (m) for the purposes of clause 27(2)(e):
  - (i) prescribing additional provisions of the *Criminal Code*; and
  - (ii) prescribing additional provisions of any other Act;
- (n) for the purposes of clause 34(2)(e), prescribing entities to whom or purposes for which the proceeds of the forfeited property are to be distributed;
- (o) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (p) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act”.

**Coming into force**

18 This Act comes into force on assent.





THIRD SESSION  
**Twenty-eighth Legislature**  
SASKATCHEWAN

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**B I L L**

No. 150

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

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Received and read the

First time

Second time

Third time

And passed

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Honourable Christine Tell

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