

2008 Bill 50

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 50

VICTIMS RESTITUTION AND COMPENSATION PAYMENT AMENDMENT ACT, 2008

THE MINISTER OF JUSTICE AND ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 50

2008

VICTIMS RESTITUTION AND COMPENSATION PAYMENT AMENDMENT ACT, 2008

(Assented to _____, 2008)

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

Amends SA 2001 cV-3.5

1 The *Victims Restitution and Compensation Payment Act* is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)(a) by adding the following after subclause (i):

(i.1) an action under Part 1.1 and includes any application or order made or step or process taken in respect of that action;

(b) by repealing subsection (1)(b) and substituting the following:

(b) “Minister” means the Minister of Justice and Attorney General and includes a person acting on behalf of the Minister;

(c) by adding the following after subsection (3):

(3.1) A reference in this Act to an instrument of illegal activity is a reference to property that

Explanatory Notes

1 Amends chapter V-3.5 of the Statutes of Alberta, 2001.

2 Section 1 presently reads in part:

1(1) In this Act,

(a) *“legal action” means*

(i) *an action under Part 1 and includes any application or order made or step or process taken in respect of that action;*

(ii) *a proceeding under Part 2 and includes any application or order made or step or process taken in respect of that proceeding;*

(iii) *a proceeding under Part 3 and includes any application or order made or step or process taken in respect of that proceeding;*

(b) *“Minister” means*

(i) *with respect to a legal action related to illegal acts that come under the Criminal Code (Canada), the Youth*

- (a) was used in carrying out an illegal act that, in turn, resulted in or was likely to or was intended to result in the acquisition of other property or in bodily harm to any person,
- (b) is likely to be used in carrying out an illegal act that, in turn, would or would be likely to or be intended to result in the acquisition of other property or in bodily harm to any person, or
- (c) is realized from the sale or other disposition of property referred to in clause (a) or (b).

(3.2) For the purposes of subsection (3.1)(b), proof that property was used in carrying out an illegal act that, in turn, resulted in the acquisition of other property or in bodily harm to any person is proof, in the absence of evidence to the contrary, that the property is likely to be used in carrying out an illegal act that, in turn, would or would be likely to or intended to result in the acquisition of other property or in bodily harm to any person.

3 Section 4 is amended

(a) in subsection (2) by adding the following after clause (b):

- (b.1) the identity of any persons who the affiant believes at the time the affidavit is sworn may have an interest in the property or who may be affected by a property disposal order made in relation to the property;

(b) by repealing subsection (3)(b);

(c) in subsection (4)

(i) by striking out “and” at the end of clause (a) and adding the following after clause (a):

- (a.1) any person identified under subsection (2)(b.1) is to be named as a respondent, and

(ii) in clause (b) by striking out “or (b)”.

Criminal Justice Act (Canada) or an enactment of Alberta, the Minister of Justice and Attorney General for Alberta, and

- (ii) with respect to a legal action related to illegal acts other than those referred to in subclause (i), the Attorney General for Canada,*

and includes a person acting on behalf of the Minister;

3 Section 4 presently reads:

4(1) In the originating notice commencing an action under this Part, the Minister may apply to the Court for a restraint order under section 5.

(2) An application made under subsection (1) is to be made ex parte and is to be supported by an affidavit deposing as to the following matters:

- (a) a description and, if known, the location of the property in respect of which the application is being made;*
- (b) the identity of the person believed to be in possession of or to have control over the property;*
- (c) the illegal act that is alleged to have been carried out that resulted in the property being acquired by illegal means;*
- (d) the grounds for belief that the property was acquired by illegal means.*

4 The following is added after section 19:

**Part 1.1
Instrument of Illegal
Activity**

Interpretation

19.1(1) In this Part,

- (a) “Court” means the Court of Queen’s Bench;
- (b) “property disposal hearing” means a hearing referred to in section 19.8;

(3) An affidavit referred to in subsection (2) may also include the following matters:

- (a) the identity of any person who the affiant believes at the time the affidavit is sworn may be a property victim in respect of matters that are before the Court;*
- (b) the identity of any persons who the affiant believes at the time the affidavit is sworn may have an interest in the property or who may be affected by a property disposal order made in relation to the property;*
- (c) whether a previous application has been made under this Act for a restraint order in respect of the property;*
- (d) whether a direction has been given by a peace officer in relation to the property pursuant to section 6;*
- (e) any other matter that the affiant considers relevant.*

(4) For the purpose of making an application under subsection (1),

- (a) the person whom the applicant believes to be in possession of or to have control over the property is to be named as the respondent, and*
- (b) if the affidavit includes the names of persons referred to in subsection (3)(a) or (b), those persons may be included as respondents.*

4 Adds Part 1.1 dealing with instruments of illegal activity.

- (c) “property disposal order” means an order granted under section 19.94;
- (d) “restrained property” means property in respect of which a restraint order has been granted;
- (e) “restraint order” means an order granted under section 19.4.

(2) A reference in this Part to a victim is a reference to

- (a) a person whose safety or health, or
- (b) whose property

has been, in some manner, adversely affected or compromised by reason of an illegal act being carried out by another person using an instrument of illegal activity.

(3) A reference

- (a) to a respondent under this Part is a reference to a person who is a respondent to an action under this Part, and
- (b) to the parties to an action under this Part is a reference to the applicant and the respondents to that action.

Legal action

19.2(1) Subject to subsection (2), the Minister may, with respect to property that is alleged to be an instrument of illegal activity, commence an action under this Part by an originating notice for the purposes of

- (a) obtaining restitution or compensation for victims and other respondents, and
- (b) making grants or as otherwise provided for under Division 2 of Part 3.

(2) The Minister may not commence an action under this Part unless

- (a) a peace officer has carried out an investigation in respect of an illegal act, and

- (b) as a result of the investigation referred to in clause (a) a peace officer
 - (i) has reasonable grounds to believe that an illegal act was or is likely to be committed,
 - (ii) reasonably believes that the property that is to be the subject of the application
 - (A) was used in carrying out an illegal act, or
 - (B) is likely to be used in carrying out an illegal act,
 - and
 - (iii) reasonably believes that the illegal act referred to in subclause (ii)
 - (A) resulted in the acquisition of other property or in bodily harm to any person, or
 - (B) would or would be likely to or be intended to result in the acquisition of other property or in bodily harm to any person.
- (3) At any time during which an action under this Part is in progress, the Minister may apply to the Court for an order directing that the action be stayed subject to any conditions that the Court considers appropriate.
- (4) Nothing in subsection (3) is to be construed so as to require the Minister to apply to stay an action.

Division 1 Restraint of Property

Application for restraint order

19.3(1) In the originating notice commencing an action under this Part, the Minister may apply to the Court for a restraint order under section 19.4.

(2) An application made under subsection (1) is to be made ex parte and is to be supported by an affidavit deposing as to the following matters:

- (a) a description and, if known, the location of the property in respect of which the application is being made;
 - (b) the identity of the person believed to be in possession of or to have control over the property;
 - (c) the identity of any persons who the affiant believes at the time the affidavit is sworn may have an interest in the property or who may be affected by a property disposal order made in relation to the property;
 - (d) the illegal act that it is alleged
 - (i) was carried out using the property, or
 - (ii) is likely to be carried out using the property;
 - (e) the grounds for belief that the property was used or is likely to be used in carrying out an illegal act.
- (3)** An affidavit referred to in subsection (2) may also include the following matters:
- (a) the identity of any person who the affiant believes at the time the affidavit is sworn may be a victim in respect of matters that are before the Court;
 - (b) whether a previous application has been made under this Act for a restraint order in respect of the property;
 - (c) whether a direction has been given by a peace officer in relation to the property pursuant to section 19.5;
 - (d) any other matter that the affiant considers relevant.
- (4)** For the purpose of making an application under subsection (1),
- (a) the person whom the applicant believes to be in possession of or to have control over the property is to be named as the respondent,
 - (b) any person identified under subsection (2)(c) is to be named as a respondent, and

- (c) if the affidavit includes the names of persons referred to in subsection (3)(a), those persons may be included as respondents.

Granting of restraint order

19.4(1) On hearing an application made under section 19.3, the Court may, if the Court is satisfied that there are reasonable grounds to believe that the property that is the subject of the application is an instrument of illegal activity, grant a restraint order,

- (a) with respect to the property, doing one or more of the following:
 - (i) prohibiting any person from doing anything with respect to the property except as may be provided in the order;
 - (ii) appointing a civil enforcement agency to take control of, possess, hold, handle, maintain, preserve or manage the property or to carry out any combination of those functions;
 - (iii) in the case of perishable or depreciating property or property that would be difficult to manage, authorizing the sale of the property and giving directions with respect to the handling of the proceeds of the sale;
 - (iv) requiring any person having possession of or control over the property to deliver the property to the civil enforcement agency appointed under subclause (ii);
 - (v) providing for matters that are ancillary to any order or direction given under subclauses (i) to (iv);
- (b) with respect to the action, doing one or more of the following:
 - (i) adding as a respondent any person who appears to be a victim or who may have an interest in the property that is subject to the matters before the Court;

- (ii) giving directions as to whom the order is to be served on;
- (iii) giving directions as to service of and the manner of service of the order;
- (iv) setting a date by when the order must be served;
- (v) giving any other directions that the Court considers appropriate in the circumstances.

(2) In addition to the matters referred to in subsection (1), in the restraint order the Court

(a) is to set

- (i) a date, not later than 45 days from the day of the granting of the restraint order, on which the Court is to commence a property disposal hearing,
- (ii) the place at which the property disposal hearing is to be held, and
- (iii) the time at which the property disposal hearing is to commence,

and

(b) may, subject to section 19.9, give directions as to the manner in which notice of the property disposal hearing is to be given.

(3) With respect to an application for a restraint order,

- (a) it is not necessary for the Minister to establish that any person has been charged with, found guilty of or convicted of or otherwise held responsible for any illegal act in relation to any matter related to the property in respect of which the application is made, and
- (b) the Court may grant a restraint order notwithstanding that a person has not been charged with, found guilty of or convicted of or otherwise held responsible for any

illegal act in relation to any matter related to the property in respect of which the application is made.

Interim action by peace officer

19.5(1) Where, by reason of exigent circumstances, it is impractical to obtain a restraint order, a peace officer who has reasonable grounds to believe that property is an instrument of illegal activity may give directions in writing doing one or more of the following:

- (a) prohibiting any person from doing anything with respect to the property except as provided in the direction;
- (b) directing any person having possession of or control over the property to turn that property over to a peace officer or a civil enforcement agency;
- (c) providing for matters that are ancillary to any direction given under clause (a) or (b).

(2) A peace officer must give the person to whom a direction is given under subsection (1)(b) a written receipt for any property that is turned over pursuant to that direction.

(3) Unless sooner revoked by a peace officer, a direction given under subsection (1) expires

- (a) on the expiration of 72 hours from the time that the direction is given, or
- (b) on the expiration of a longer period of time as directed by the Court.

(4) Notwithstanding subsection (3), if with respect to a direction given under subsection (1) the 72-hour period expires on a day on which the Court does not sit, that direction continues in effect until the end of the Court's business hours on the first day that the Court sits following the expiration of the 72-hour period.

(5) If a person having possession of or control over the property turns the property over to a peace officer or a civil enforcement agency pursuant to a direction given under subsection (1)(b), the peace officer or the civil enforcement

agency, as the case may be, must return the property to that person at the expiration of that direction unless otherwise directed by the Court.

(6) A person who fails to comply with a direction given under subsection (1) is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than 6 months or to both a fine and imprisonment.

(7) If a peace officer has reasonable grounds to believe that a person has committed an offence under subsection (6), the peace officer may arrest the person without a warrant and seize the property in respect of which the direction was given under subsection (1).

(8) Property that is seized by a peace officer under subsection (7) is deemed to have been turned over to the peace officer pursuant to a direction given under subsection (1)(b).

Application re addition of parties, review of restraint order, conduct of proceedings, etc.

19.6(1) At any time after the granting of a restraint order but prior to the property disposal hearing the following applications may be made to the Court:

- (a) any person who is not a respondent but alleges
 - (i) to be a victim in respect of the matters before the Court, or
 - (ii) to have an interest in the restrained property,
may apply to be added as a respondent to the action;
- (b) a respondent may apply for a review of the restraint order;
- (c) a party to the action may apply for directions with respect to the conduct of the action or other matters related to the action;
- (d) a party to the action may apply for directions with respect to the addition of other persons as respondents to the action;

- (e) a party to the action may apply for directions as to whether persons other than parties to the action are to be given notice of the property disposal hearing;
- (f) a party to the action may apply for an adjournment of the property disposal hearing if the party is not ready to proceed with the property disposal hearing;
- (g) a party to the action may apply for an ancillary order with respect to any matter referred to in clauses (a) to (f).

(2) On an application under subsection (1) or on its own motion, the Court may do one or more of the following:

- (a) conduct a review of the restraint order under section 19.7;
- (b) add a person as a respondent to the action;
- (c) give directions with respect to the conduct of the action or other matters related to the action;
- (d) give directions respecting notice to be given of the property disposal hearing;
- (e) grant an adjournment or subsequent adjournments of the property disposal hearing;
- (f) give any other directions that the Court considers appropriate in the circumstances;
- (g) make any ancillary order that the Court considers appropriate in the circumstances;
- (h) subject to section 48, award costs in respect of an application.

(3) An application under this section is to be by way of a notice of motion within the action in which the restraint order was granted.

Review of restraint order

19.7(1) A request for a review of a restraint order must be supported by an affidavit by the person requesting the review setting out

- (a) any evidence with respect to any matters before the Court that were not before the Court at the time of the granting of the restraint order, and
- (b) any other matters that the affiant considers relevant to the request for the review.

(2) On conducting a review of a restraint order, the Court may do one or more of the following:

- (a) confirm the restraint order;
- (b) revoke the restraint order and order that the restrained property be returned to any person that the Court considers appropriate and may provide for compensation for actual loss, if any, resulting directly from the restraint of the property;
- (c) vary any of the terms of the restraint order if the Court considers it appropriate in the circumstances to do so;
- (d) direct the release of all or a portion of the restrained property if there is deposited with the Court a sum of money or other security in an amount that the Court considers appropriate to take the place of all or a portion of the restrained property;
- (e) make any ancillary order that the Court considers appropriate in the circumstances;
- (f) subject to section 48, award costs in respect of the review and, if the Court considers it appropriate in the circumstances, provide for the payment of expenses incurred in respect of the property as a result of the restraint order.

(3) Notwithstanding anything in this section, the Court may dismiss an application for a review of the restraint order if the

Court, on considering the supporting affidavit or other representations made to the Court, is satisfied that

- (a) the evidence before the Court with respect to the application to review the restraint order is the same or substantially the same as the evidence that was before the Court at the time of the granting of the restraint order, or
- (b) there is not sufficient reason set out in the affidavit to cause the Court to vary or revoke the restraint order.

Division 2 Disposal of Restrained Property

Property disposal hearing

19.8 At a property disposal hearing, the Court is to determine

- (a) whether or not the restrained property is an instrument of illegal activity;
- (b) what interests, if any, the respondents have in the restrained property;
- (c) whether or not a victim or other respondent is entitled
 - (i) to any of the restrained property,
 - (ii) to any proceeds from the restrained property, or
 - (iii) to any compensation arising out of the respondent's safety or health or property being, in some manner, adversely affected or compromised by an illegal act carried out with the instrument of illegal activity;
- (d) whether or not any restrained property is available to be dealt with under section 19.97.

Notice of property disposal hearing

19.9(1) Service of a restraint order on a respondent constitutes service on that respondent of notice of the property disposal hearing.

(2) Where the Court has given directions

- (a) for the substitutional service of a restraint order on a respondent, the respondent is deemed to have been given notice of the property disposal hearing when the restraint order is served on the respondent in accordance with the Court's direction, or
- (b) dispensing with service of a restraint order on a respondent, that respondent is, for the purposes of section 19.92, deemed to have been given notice of the property disposal hearing.

(3) When a party is granted an adjournment of a property disposal hearing, that party must serve the other parties to the action with a notice as to when the property disposal hearing is adjourned to.

(4) Unless the Court directs otherwise,

- (a) service of a notice under subsection (3) may be served on a respondent in the same manner as the restraint order was served on that respondent, and
- (b) if service of the restraint order on a respondent was dispensed with, service of notice under subsection (3) on that respondent is also dispensed with.

Claim to restrained property

19.91(1) Any claim made in respect of restrained property

- (a) may be made only by a respondent, and
- (b) may be established only by means of evidence provided by the respondent in accordance with this section.

(2) If a respondent wishes to make a claim in respect of restrained property, the respondent must, not less than 5 days before the day on which the property disposal hearing is to commence,

- (a) file with the Court an affidavit setting out the nature and extent of the respondent's interest in the property and

any other matters related to the respondent's claim to the property, and

- (b) serve the affidavit on the other parties to the action.

(3) Notwithstanding subsection (2), at a property disposal hearing a respondent may, with the leave of the Court, give oral evidence setting out the nature and extent of the respondent's interest in the restrained property and any other matters related to the respondent's claim to the property.

Forfeiture due to respondent's failure

19.92 Unless the Court directs otherwise, a respondent forfeits all of that respondent's rights to the restrained property if that respondent fails, without a reasonable excuse,

- (a) after being served with notice of a property disposal hearing, to attend or to be represented at the property disposal hearing;
- (b) to attend an examination for the purposes of being examined on the respondent's affidavit;
- (c) to answer questions put to the respondent on examination or cross-examination;
- (d) to provide, as directed by the Court or pursuant to an undertaking given by the respondent, any information or any documentation, whether in written or electronic form;
- (e) to comply with the directions of a peace officer given under section 19.5.

Conduct of property disposal hearing

19.93(1) At a property disposal hearing

- (a) the onus is on the Minister to establish that the restrained property is an instrument of illegal activity;
- (b) the onus is on a respondent to establish, with respect to the restrained property,

- (i) the nature and extent of that respondent's claim, if any, to any interest in the property,
 - (ii) that the respondent
 - (A) has not been or would not have been involved in or associated with carrying out an illegal act using, or associated with, the restrained property, and
 - (B) did not know and would not reasonably be expected to know that the restrained property was or was likely to be used in carrying out an illegal act,
 - (iii) if the respondent is a victim of an illegal act that the restrained property was used in carrying out, that the respondent's safety or health or property has been, in some manner, adversely affected or compromised as a result of the illegal act, and
 - (iv) where the property was used in carrying out an illegal act and subsequent to the illegal act the property was acquired by the respondent, that the respondent did not know and would not reasonably be expected to know that the property had been used in carrying out an illegal act;
- (c) the parties to the action may make representations in respect of matters before the Court, and any other person who is not a party to the action may, with the leave of the Court, make representations to the Court in respect of matters before the Court;
- (d) with the leave of the Court, any respondent or other person may give oral evidence.
- (2)** At any time during the conduct of a property disposal hearing a person may, with the leave of the Court, apply to be added as a respondent to the action and, on considering the application, the Court may, subject to any terms that the Court considers appropriate in the circumstances, add that person as a respondent to the action if the Court considers that it would be just and equitable to do so.

(3) If the Court is satisfied that there is other property that was used in carrying out the same illegal act that the restrained property was used in carrying out or that is likely to be used in addition to the restrained property in carrying out an illegal act, the Court may at the property disposal hearing deal with that other property in the same manner as if it were restrained property.

(4) For the purposes of a property disposal hearing, it is not necessary for the Minister to establish that any person has been charged with, found guilty of or convicted of or otherwise held responsible for any illegal act in relation to any matter related to the property in respect of which the property disposal hearing is being conducted.

Determination of the Court re property disposal hearing

19.94 If at the conclusion of a property disposal hearing the Court determines, based on a balance of probabilities, that the restrained property

- (a) was not used and is not likely to be used in carrying out an illegal act, the Court
 - (i) is to revoke the restraint order and direct that the restrained property be returned to the person against whom the restraint order was made or to any other person that the Court considers appropriate or as otherwise directed by the Court, and
 - (ii) may provide for compensation for actual loss, if any, resulting directly from the restraint of the property,

or

- (b) was used or is likely to be used in carrying out an illegal act, the Court may grant a property disposal order and in the property disposal order
 - (i) provide under section 19.95 for the return of the restrained property to the respondents or otherwise dispose of the restrained property or the proceeds from the restrained property among the respondents;

- (ii) provide under section 19.96 for the disposal or other utilization of the restrained property for the purposes of providing compensation to victims who do not qualify for compensation under section 19.95;
- (iii) provide under section 19.97 for the disposal of the restrained property and for payment to the Crown of the proceeds from the disposal to be used for the purposes of making grants or as otherwise provided for under Division 2 of Part 3.

Victims with an interest in the restrained property

19.95 On determining that the restrained property is an instrument of illegal activity, the Court may, with respect to the respondents who are victims and who have discharged the onuses set out in section 19.93(1)(b)(i) to (iii), declare the nature and extent of the respondents' interests in the restrained property and do one or more of the following:

- (a) direct the return of restrained property to one or more of the respondents;
- (b) direct that the restrained property be disposed of and give directions as to the distribution of the proceeds from the disposal to one or more of the respondents;
- (c) if 2 or more respondents have established a claim to restrained property, direct that the restrained property be disposed of and give directions as to the distribution of the proceeds from the disposal among those respondents and the proportion, if any, to which each respondent is entitled;
- (d) if, in respect of restrained property, any income, increase in value or other gain was derived, give directions as to which respondents are entitled to that income, increase or gain and the proportion, if any, to which each respondent is entitled;
- (e) if the Court is satisfied that, as a result of restrained property being used in carrying out an illegal act, the respondent's interest in that property or the value of that interest has been reduced or otherwise diminished, direct

that any restrained property that has not been disposed of under clauses (a) to (d) be utilized, through being disposed of or otherwise, to provide compensation to the respondent with respect to the reduction or diminishment in that interest or in the value of that interest;

- (f) give any directions with respect to restrained property that appear just and equitable with respect to the claims of the respondents.

Other victims

19.96 If after restrained property has been dealt with under section 19.95, all or some of the restrained property remains undisposed of or is not otherwise utilized under section 19.95 and, in the opinion of the Court,

- (a) the illegal act for which the restrained property was restrained caused or contributed to a respondent's safety or health or property being, in some manner, adversely affected or compromised, and
- (b) the respondent
 - (i) is a victim,
 - (ii) does not have an interest in the restrained property,
 - (iii) has discharged the onus under section 19.93(1)(b)(ii) and (iii), and
 - (iv) should be compensated for the adverse effect on or compromising of the respondent's safety or health or property,

the Court may establish the amount of that compensation and direct that the restrained property or a portion of it be disposed of and the proceeds from the disposal up to the value of that amount of compensation be turned over to the respondent, or give any other directions in respect of that respondent that appear just and equitable.

Restrained property to be used for making grants

19.97 If, after restrained property has been dealt with under section 19.95 and, if applicable in the circumstances, under

section 19.96, all or some of the restrained property remains undisposed of or is not otherwise utilized, the Court may direct that the restrained property or a portion of it be disposed of and the proceeds from the disposal be paid to the Crown to be used for the purposes of making grants or as otherwise provided for under Division 2 of Part 3.

Other matters respecting property disposal order

19.98(1) In the property disposal order or in an ancillary order the Court may also do one or more of the following:

- (a) where the Court determines, with respect to restrained property, that there are bona fide intervening or other legal or equitable interests in the restrained property, give directions with respect to priorities concerning those interests and the preservation or disposition of those interests or as to how those interests are to be otherwise dealt with;
- (b) give directions as to the transferring of title or otherwise dealing with the title to the restrained property;
- (c) direct that restrained property be turned over to a respondent;
- (d) make the order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (e) give any ancillary directions that the Court considers appropriate in the circumstances;
- (f) stay a property disposal order or ancillary order or any portion of it pending an appeal under section 19.99;
- (g) subject to section 48, award costs with respect to the proceedings;
- (h) subject to section 48, direct the payment of any expenses incurred or services provided in respect of the management, preservation, handling, maintenance or disposal of the restrained property or dealing with the title to the restrained property as a result of the restraint order or as a result of the property disposal order.

(2) On the coming into effect of a property disposal order, any restraint order that was granted in respect of the property is revoked unless the Court directs otherwise.

(3) The Court may grant a property disposal order notwithstanding that a person has not been charged with, found guilty of or convicted of or otherwise held responsible for any illegal act in relation to any matter related to the property in respect of which the property disposal order is being granted.

Appeal

19.99(1) No application or order made or step or process taken under this Part, other than a property disposal order or an ancillary order made in respect of a property disposal order, may be appealed.

(2) An appeal under this Part

- (a) is to be made to the Court of Appeal,
- (b) may be commenced only by a party to the action, and
- (c) must be filed and served within 30 days from the day that the order being appealed was served on the party appealing.

5 Section 46 is amended

- (a) in subsection (2) by adding “, 1.1” after “Part 1”;
- (b) in subsection (5)(c) and (d) by adding “or whose safety or health or property is alleged to have been, in some manner, adversely affected or compromised” after “property”;
- (c) in subsection (6) by adding “19.99,” after “19,”.

5 Section 46(2), (5) and (6) presently read:

(2) Where, with respect to a legal action under Part 1 or 2, the Minister decides not to commence a legal action or not to advance or continue a legal action, the Minister may, subject to any terms or conditions that the Minister considers appropriate, authorize another person to commence, advance or maintain the legal action in the place of the Minister, and in the authorization the Minister may stipulate whether the person is acting on behalf of the Minister or on the person's own behalf in respect of the legal action.

(5) In making any decision in respect of the commencement, advancement, maintenance or discontinuance of a legal action or any other matter respecting a legal action, the Minister may take into account any factors that the Minister considers appropriate, including but not limited to the following:

6 Section 49 is amended

(a) by adding the following after subsection (1):

(1.1) Nothing in this Act or at law is to be construed so as to prohibit or otherwise restrict the Minister from commencing and continuing concurrent legal actions under different Parts of this Act with respect to the same subject-matter.

(b) in subsection (2) by adding “or Part 1.1” after “Part 1” wherever it appears.

7 The following is added after section 50:

- (a) *the nature of the circumstances surrounding the matters related to the legal action;*
- (b) *the possible extent or scope to which the proceedings in the legal action may evolve;*
- (c) *the conduct of a person who is alleged to have been deprived of property as a result of an illegal act;*
- (d) *the ability of a person who is alleged to have been deprived of property as a result of an illegal act to pursue other legal remedies in respect of the matter;*
- (e) *the availability of resources to the Minister that may be used to commence, advance and maintain legal actions;*
- (f) *the fact that a person has been charged or has the potential to be charged with an offence in respect of an illegal act related to the legal action.*

(6) Except as provided in sections 19, 29 and 41, no decision made or action taken by the Minister in respect of a legal action is to be questioned, reviewed or restrained by means of an appeal or any proceedings in the nature of injunction, prohibition, mandamus, quo warranto or any other process or proceeding in any court or to be removed by any proceeding in the nature of certiorari or otherwise in any court.

6 Section 49(2) presently reads:

(2) Where a legal action commenced under Part 1 has been discontinued and a legal action has been commenced in its place under another Part of this Act in respect of the same or substantially the same subject-matter, the restraint order granted under Part 1 in respect of the legal action that was discontinued remains in effect unless the Court that granted the restraint order directs otherwise.

7 Limitation period.

Limitation period

50.1 The time limit for commencing a legal action under Part 1 or, in respect of an illegal act that has occurred, under Part 1.1 is 10 years from the date on which the illegal act occurred.

8 The following is added after section 54:

Access, use and disclosure of information

54.1(1) The Minister may enter into information-sharing agreements that are reasonably required by the Minister to exercise powers or perform functions and duties under this Act with the following:

- (a) the government of Canada or of any province or territory or another jurisdiction in or outside of Canada or an agency of any government, or
- (b) a public body.

(2) The Minister is entitled to information, including personal information, that is

- (a) in the custody or control of a public body, and
- (b) reasonably required by the Minister to exercise powers or perform functions or duties under this Act.

(3) A public body must, on request, disclose to the Minister information to which the Minister is entitled under subsection (2).

(4) The Minister may

- (a) use information obtained under this section only for the purpose of exercising a power or carrying out functions or duties under this Act, and
- (b) disclose information obtained under this section only
 - (i) for a purpose referred to in clause (a), or
 - (ii) as required by law.

(5) In this section,

8 Access, use and disclosure of information.

- (a) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (b) “public body” means public body as defined in the *Freedom of Information and Protection of Privacy Act*.

9 Section 55 is amended by adding the following after clause (e):

- (e.1) respecting the collection, use or disclosure of personal information.

10 Section 56(1) is repealed and the following is substituted:

9 Section 55 presently reads:

55 The Lieutenant Governor in Council may make regulations

- (a) specifying enactments of Canada or provisions of those enactments to which this Act applies;*
- (b) specifying enactments of Alberta or provisions of those enactments to which this Act applies;*
- (c) establishing or otherwise modifying any rules or procedures that apply to legal actions;*
- (d) specifying or otherwise prescribing the information and documentary evidence to be provided in respect of a property and revenue statement given under Part 2 or 3;*
- (e) providing for forms to be used under this Act and respecting the use of those forms;*
- (f) for the purposes of legal actions,*
 - (i) modifying any of the rules of the Alberta Rules of Court,*
 - (ii) making rules to apply in the place of one or more of the rules of the Alberta Rules of Court;*
 - (iii) specifying that one or more of the rules of the Alberta Rules of Court do not apply;*
 - (iv) prescribing that only specific rules of the Alberta Rules of Court apply.*

10 Section 56(1) presently reads:

56(1) Part 1 applies in respect of an illegal act whether that illegal act takes place before or after the coming into force of Part 1.

Transitional

56(1) Parts 1 and 1.1 apply in respect of an illegal act whether that illegal act takes place before or after the coming into force of Part 1 or Part 1.1, as the case may be.

11 This Act comes into force on Proclamation.

11 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To