

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

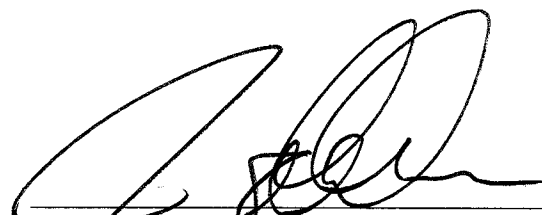
Order in Council No. **545**, Approved and Ordered **JUL 18 2007**



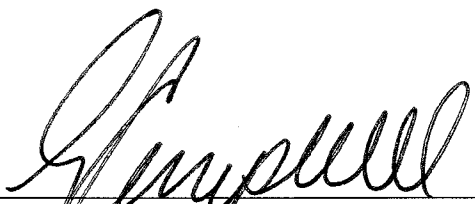
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Civil Forfeiture Regulation, B.C. Reg. 164/2006, is amended as set out in the attached Schedule.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and Section: Civil Forfeiture Act, S.B.C. 2005, c. 29, ss. 22 (5), 24, 27, 29, 30 and 38

Other (specify): OIC 414/2006

SCHEDULE

1 *Section 5 of the Civil Forfeiture Regulation, B.C. Reg. 164/2006, is amended by adding the following subsection:*

- (3) The form of cancellation of a notice referred to in section 23 (3) of the Act is the form set out as Form 3 in the Schedule to this regulation.

2 *The following section is added:*

Section 22 (5)

- 8** (1) For the purposes of section 22 (5) of the Act, the following are prescribed public bodies:
- (a) Ministry of the Environment;
 - (b) Ministry of Small Business and Revenue;
 - (c) Insurance Corporation of British Columbia.
- (2) It is a precondition to the director's entitlement to information from a public body under section 22 (5) of the Act that the person from whom the director has requested the information reasonably believes that the information is not covered by an agreement with a third party under which the information is required to be kept confidential.

3 *The following Part is added:*

PART 4 - DISTRIBUTION OF PROCEEDS FROM THE CIVIL FORFEITURE ACCOUNT

Payment out of the civil forfeiture account

- 9** (1) In subsection (2), "**government**" means any of the following:
- (a) the government of Canada;
 - (b) the government of a province;
 - (c) the government of another country or a state or city in another country and includes an agent of a government referred to in paragraphs (a) to (c).
- (2) In addition to the purposes set out in section 27 (1) (a) to (d) of the Act, the director may make payments out of the civil forfeiture account for the purpose of compensating a government that provided support to the director or co-operated with the director in the forfeiture of property or an interest in property under this Act.
- (3) An eligible victim who suffered pecuniary loss as a direct result of unlawful activity that resulted in forfeiture may apply for compensation from the civil forfeiture account by filing with the director, a completed form 4 set out in the Schedule within the period specified in the notice published by the director for payment of compensation from that forfeiture.

- (4) Before the director makes a payment out of the civil forfeiture account with respect to property or an interest in property that has been forfeited, the director must publish a notice specifying that a person may file an application for payment of compensation with respect to that forfeiture.
- (5) The notice referred to in subsection (4) must specify a period for filing an application that is not fewer than 3 months nor more than 9 months from the date of publication of the notice, or of the first notice, as the case may.

Determination of net proceeds

10 For the purposes of the Act and this regulation, net proceeds is the amount of money resulting from the disposition of property or the whole or portion of an interest in property forfeited under this Act, after subtracting the following costs incurred by the director in proceeding under this Act with respect to that forfeited property or interest in property:

- (a) the amount of legal costs that remains after deducting any party and party legal costs awarded to or agreed to by the director with respect to proceedings for the forfeiture of property or an interest in property from the legal costs incurred by or on behalf of the director in relation to that forfeiture or the distribution of compensation resulting from that forfeiture;
- (b) the management and administrative costs related to holding and administering the forfeited property or interest in property before sale or disposition;
- (c) the costs related to the sale or disposition of the forfeited property or interest in property.

Prorating payments

- 11** (1) The director may prorate payments among eligible victims who have applied for compensation, if the net proceeds in the civil forfeiture account that are attributable to a forfeiture of property or an interest in property are less than the total pecuniary loss suffered by the eligible victims as a direct result of the unlawful activity that resulted in that forfeiture.
- (2) The payment made to each eligible victim must be determined in accordance with the following formula:

$$\text{Pro rated payment} = [(A \times B) \div C]$$

where

A = the net proceeds in the civil forfeiture account that are attributable to a for-

feiture of property or an interest in property;

B= The pecuniary loss suffered by an eligible victim that resulted in the forfeiture of that property or interest in property, excluding interest on that pecuniary loss;

C= The total pecuniary loss suffered by all eligible victims that resulted in the forfeiture of that property or interest in property, excluding interest on that pecuniary loss.

4 *The Schedule to the Regulations is amended by repealing and replacing Form 1 and by adding Forms 3 and 4 as set out in the attached Appendix.*

APPENDIX

Form 1

Section 23 of the Civil Forfeiture Act

NATURE OF INTEREST: CHARGE

NOTICE OF COMMENCEMENT OF PROCEEDINGS

HEREWITH FEE OF

LEGAL DESCRIPTION AND PARCEL IDENTIFIER NO.(s):

Address and telephone number of the Director of Civil Forfeiture:

SIGNATURE OF DIRECTOR, SOLICITOR
OR AUTHORIZED AGENT

No.:

..... REGISTRY

In the Supreme Court of British Columbia

BETWEEN:

.....

PLAINTIFF/PETITIONER

AND:

.....

DEFENDANT/RESPONDENT

CERTIFICATE OF COMMENCEMENT OF PROCEEDINGS

I CERTIFY that in a proceeding commenced in this Court under the *Civil Forfeiture Act* a claim is made relating to land or an interest or portion of interest in land. The particulars are set out in the attached copy of the document by which the claim is made.

Given under my hand and the seal of the court at

..... British Columbia, this day of, 20.....

..... REGISTRAR

Form 3

Section 23 of the Civil Forfeiture Act

NATURE OF INTEREST:

Cancellation of notice of commencement of proceedings

HEREWITH FEE OF:

Legal description and parcel identifier no.(s):

Full name, address and telephone number of person presenting application:

.....
SIGNATURE OF DIRECTOR, OR
SOLICITOR OR AUTHORIZED AGENT

TAKE NOTICE that the Notice of Commencement of Proceedings filed in the Land Title Office under No., on the day of, 20, against the land described as follows:

[Legal description and parcel identifier no(s)]

is hereby released and discharged.

EXECUTION: This instrument discharges the notice described above and the Director agrees to be bound by this instrument.

Officer Signature(s)

Execution Date		
Y	M	D

Director Signature

Director of Civil Forfeiture

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Form 4- Application for compensation from the civil forfeiture account

Section 23 of the Civil Forfeiture Act

Section 1: General Information

PLEASE PRINT ALL INFORMATION

1 Amount of Claim

2 Claimant's Name:

First Name

Last Name

(if business) Full Corporate Name

Street No., Street Name

Suite/Unit No.

City

Province

Postal Code

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()

()

Telephone No.

Business No.

Facsimile No.

Email Address

3 If claimant is under 19, please also include legal guardian's contact information and relationship to claimant

Section 2: Claims Information

4 **Particulars of Claim:** (attach copies of all documents needed to prove your claim such as cancelled cheques, receipts, bank or credit card statements, leases, agreements, etc. Failure to do so may result in your claim being denied without further notice to you).

(Attach an additional page if necessary)

Section 3: Additional Information

5 Have you received any monies or are you entitled to receive any monies from any source RELATING TO THIS CLAIM?

YES [] OR NO []

If yes, we need you to tell us how much and from where you will receive or have received this money. Examples of a source relating to this claim are your insurance, another government program like the Crime Victim Assistance Program or the Workers Compensation program or a restitution order made by a court under section 738 or 739 of the *Criminal Code*.

(Attach an additional page if necessary)

6 Was a police report filed or a court action started RELATING TO THIS CLAIM?

YES [] OR NO []

If yes, we need you to attach a copy of the police report or the court documents to this claim. If no documents are attached, explain why not.)

(Attach an additional page if necessary)

7 Other than being a victim and entitled to file a claim, do you have any connection with the persons responsible for or connected to the unlawful activity that resulted in the forfeiture proceeding? (For example, are you a relative or did you have any role in the unlawful activity giving rise to the forfeiture?).

YES [] OR NO []

(If yes, please provide details.)

(Attach an additional page if necessary)

Section 4: Declaration

8 Declaration of Claimant/Guardian:

I certify that:

- A. The information contained in this application or submitted in support of this application is true and if there is any change to the information after I have submitted this application I will contact the Director of Civil Forfeiture, Ministry of Public Safety and Solicitor General, immediately.
- B. I am aware and agree that the information contained in this application or submitted in support of this application will be used for assessment of claim, for determining eligibility and for statistical reporting.
- C. I am aware that false or incomplete information or failure to notify the Director of Civil Forfeiture, Ministry of Public Safety and Solicitor General, of any change in the information contained in this application or submitted in support of this application may result in the denial of the claim or liability for repayment.
- D. I am aware and agree that the information contained in this application or submitted in support of this application is subject to disclosure under the *Freedom of Information and Protection of Privacy Act* and the *Civil Forfeiture Act*.

Claimant Signature

Date

Guardian Signature
(If claimant under age 19)

Date

Print Name:

Print Name: