



Province of Alberta

# **UNCLAIMED PERSONAL PROPERTY AND VESTED PROPERTY ACT**

Statutes of Alberta, 2007  
Chapter U-1.5

Current as of September 1, 2014

Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2014 c10 s61 amends s28(1)(c).

### Regulations

The following is a list of the regulations made under the *Unclaimed Personal Property and Vested Property Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Unclaimed Personal Property and Vested Property Act</b>		
General .....	104/2008 .....	164/2010, 213/2013, 211/2014

# **UNCLAIMED PERSONAL PROPERTY AND VESTED PROPERTY ACT**

## Chapter U-1.5

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

### Definitions

**1** In this Act,

- (a) “apparent owner” means, in relation to personal property, the person whose name appears on the records of a holder as the person entitled to the personal property held, issued or owing by the holder;
- (b) “based”, except in section 44, means based within the meaning of section 2(1);
- (c) “business organization” means a corporation or other body corporate, partnership, organization or other entity, whether operated for profit or not, and includes, without limitation, a mutual fund, an insurer, a sole proprietorship and a fraternal or mutual benefit association;
- (d) “carry on business” means carry on business within the meaning of section 2;
- (e) “certificated security” means a certificated security as defined in the *Securities Transfer Act*;
- (f) “company” means a company as defined in the *Companies Act*;
- (g) “cooperative” means a cooperative as defined in the *Cooperatives Act*;
- (h) “corporation” means a corporation incorporated under the *Business Corporations Act*;
- (i) “Court” means the Court of Queen’s Bench or the Provincial Court, as the case may be;
- (j) “Crown”, except in clause (q) and section 28(1)(a), means the Crown in right of Alberta;
- (k) “deliver”, with reference to a notice, document or other thing, includes to mail to or to leave with a person, to deposit in a person’s mail box or receptacle at the person’s

residence, place of business or registered office or to provide to a person by electronic means in accordance with the *Electronic Transactions Act*;

- (l) “encumbrance” means an encumbrance as defined in the *Land Titles Act*;
- (m) “encumbrancee” means an encumbrancee as defined in the *Land Titles Act*;
- (n) “entitlement holder” means an entitlement holder as defined in the *Securities Transfer Act*;
- (o) “former Act” means the *Ultimate Heir Act*, RSA 2000 cU-1;
- (p) “former owner” means the individual or the dissolved corporation, company, society or cooperative that owned property immediately before that property vested in the Crown;
- (q) “governmental organization” means
  - (i) a department of the Government of Alberta or a Provincial agency, board or commission of the Government of Alberta,
  - (ii) a local authority within the meaning of the *Municipal Government Act*, or
  - (iii) a federal or Provincial agency or corporation or Crown-controlled organization within the meaning of the *Financial Administration Act* (Canada) or the *Financial Administration Act*;
- (r) “holder” means the individual or entity, including a business organization, a governmental organization, the personal representative of a deceased person, a securities intermediary who maintains a securities account for an entitlement holder and any issuer of an uncertificated security or of a certificated security in registered form, that is or becomes obligated to hold property for the account of an apparent owner, but does not include any class of individual or entity exempted by the regulations;
- (s) “intangible personal property” means an interest that is held, issued or owing by a business organization or by a government or governmental organization, and includes, without limitation, an interest that is referred to as or is evidenced by

- (i) money or a cheque, money order, traveller's cheque, draft, deposit, interest or dividend,
  - (ii) a security deposit, refund, credit balance, unpaid wage or salary, unused ticket or unidentified remittance,
  - (iii) a security certificate or other evidence of ownership of an interest in a business organization,
  - (iv) a security or security entitlement,
  - (v) a bond, debenture, note or other evidence of indebtedness,
  - (vi) money deposited to redeem shares, bonds, coupons or other securities or to make distributions,
  - (vii) an amount due and payable under the terms of an annuity or insurance policy, including a policy providing life insurance, property and casualty insurance, workers' compensation insurance or accident and sickness insurance, and
  - (viii) an amount distributable from a trust or custodial fund established under a plan to provide education, health, welfare, vacation, severance, death, share purchase, profit-sharing, employee savings, supplemental unemployment insurance or similar benefits,
- but does not include any thing or class of thing excluded by the regulations;
- (t) "issuer" means an issuer as defined in the *Securities Transfer Act*;
  - (u) "land" means land as defined in the *Land Titles Act*;
  - (v) "Minister", except where otherwise indicated, means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
  - (w) "owner" means a person who has a legal or equitable interest in property that is subject to this Act, and includes the person's personal representative;
  - (x) "personal information" means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;



- (y) “personal property” means any property that is not land, and includes both intangible personal property and tangible personal property;
- (z) “personal representative”, with respect to a person’s estate, includes a legal representative, but does not include the Public Trustee;
- (aa) “property” includes both land and personal property;
- (bb) “reciprocating jurisdiction” means a jurisdiction declared by the Lieutenant Governor in Council under section 43 to be a reciprocating jurisdiction;
- (cc) “Registry” means the Unclaimed Personal Property and Vested Property Registry established under section 47;
- (dd) “reporting holder” means a person who, under section 7(1), is obligated to comply with section 7(2);
- (ee) “repository” means the repository of information established under section 46;
- (ff) “securities account” means a securities account as defined in the *Securities Transfer Act*;
- (gg) “securities intermediary” means a securities intermediary as defined in the *Securities Transfer Act*;
- (hh) “security” means a security as defined in the *Securities Transfer Act*;
- (ii) “security certificate” means a security certificate as defined in the *Securities Transfer Act*;
- (jj) “security entitlement” means a security entitlement as defined in the *Securities Transfer Act*;
- (kk) “society” means a society incorporated under the *Societies Act*;
- (ll) “tangible personal property” means any personal property that is not intangible personal property and is not excluded by the regulations;
- (mm) “uncertificated security” means an uncertificated security as defined in the *Securities Transfer Act*;

- (nn) “unclaimed personal property” means personal property that is unclaimed by the apparent owner and presumed to be abandoned under section 4;
- (oo) “vested land” means land that has vested in the Crown in accordance with section 15;
- (pp) “vested personal property” means personal property that has vested in the Crown in accordance with section 15;
- (qq) “vested property” includes both vested land and vested personal property.

### Interpretation

**2(1)** For the purposes of this Act, a person that is not an individual is based in a jurisdiction if the person’s central management is exercised in that jurisdiction.

**(2)** For the purposes of this Act, a person that is not an individual carries on business in a jurisdiction if

- (a) it has or is required by law to have in that jurisdiction
  - (i) a registered office, or
  - (ii) in the case of a partnership, a registered office or business address,
- (b) according to law, it
  - (i) has registered an address in that jurisdiction at which process may be served generally, or
  - (ii) has nominated an agent in that jurisdiction on whom process may be served generally,
- (c) it has a place of business in that jurisdiction, or
- (d) it is based in that jurisdiction.

**(3)** Where any provision of this Act or the regulations authorizes the Minister to collect, use or disclose records, reports, information or identifiers, including numerical identifiers,

- (a) the authorization includes the power to collect, use or disclose personal information or records or reports that contain personal information or identifiers, and

- (b) a holder is authorized to provide records, reports or information, including personal information, to the Minister and to collect information, including personal information or identifiers, from the Minister as required for that purpose.

**Application**

**3(1)** Subject to subsections (3) and (4), this Act applies to

- (a) unclaimed tangible personal property in Alberta,
- (b) unclaimed intangible personal property, and
- (c) vested property,

including, without limitation, the property of an individual, a dissolved corporation, a dissolved society under the *Societies Act* and a dissolved cooperative under the *Cooperatives Act*.

**(2)** Notwithstanding subsection (4)(e), this Act applies to intangible personal property as defined in section 1(s)(viii).

**(3)** Except as otherwise provided in another enactment, this Act does not apply to unclaimed personal property or vested property in Alberta that is

- (a) disposed of, or
- (b) otherwise dealt with

under another enactment of Alberta or an Act of Canada.

**(4)** This Act does not apply

- (a) to an individual who is a holder by virtue of any loan or other extension of credit to that individual that is primarily for that individual's personal, family or household purposes,
- (b) except as otherwise provided by this Act or the regulations, to unclaimed personal property the net value of which, determined in accordance with the regulations, is
  - (i) in the case of intangible personal property, less than \$250, and
  - (ii) in the case of tangible personal property, less than \$1000,

- (c) to any funds held or benefits payable pursuant to the following enactments, unless the enactment specifies otherwise:
  - (i) repealed 2012 cE-8.1 s160;
  - (ii) the *Legal Profession Act*;
  - (iii) the *Members of the Legislative Assembly Pension Plan Act*;
  - (iv) the *Provincial Judges and Masters in Chambers Registered and Unregistered Pension Plans Regulation* (AR 196/2001);
  - (v) the *Public Sector Pension Plans Act*;
  - (vi) the *Teachers' Pension Plans Act*,
- (d) to any other funds held or benefits payable pursuant to an enactment set out in the regulations, or
- (e) subject to the regulations, to unclaimed personal property or vested property in Alberta that is held in trust.

(5) This Act operates notwithstanding the *Alberta Personal Property Bill of Rights*.

(6) If a default notice under the *Freehold Mineral Rights Tax Act* has been served on a former owner or is served on the Minister in respect of vested mines and minerals, the *Freehold Mineral Rights Tax Act* prevails notwithstanding this Act.

2007 cU-1.5 s3;2012 cE-8.1 s160

## **Part 1**

### **Unclaimed Personal Property**

#### **When personal property is presumed to be abandoned**

**4(1)** Personal property is presumed to be abandoned if it is unclaimed by the apparent owner within the applicable periods prescribed in the regulations.

**(2)** Unless otherwise provided in the regulations, at the time that an interest in personal property is presumed abandoned under subsection (1), any other personal property right accrued or accruing to the apparent owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

**(3)** For the purposes of subsection (1), personal property is unclaimed if, within the applicable period prescribed by the regulations, the apparent owner has not

- (a) communicated with the holder concerning the personal property or the account in which the personal property is held
  - (i) in writing, or
  - (ii) by other means reflected in a record prepared by or on behalf of the holder at the time of the communication,
- or
- (b) otherwise indicated an interest in the personal property by an action in accordance with the regulations.

**(4)** Subject to the regulations, for the purposes of subsection (3)(b), an indication of an apparent owner's interest in personal property includes,

- (a) in the case of a dividend or other distribution made with respect to an account or underlying security, security certificate or security entitlement or other interest in a business organization, the presentation of a cheque or other instrument of payment of a dividend or other distribution or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received,
- (b) in the case of an account in which the personal property is held, apparent owner directed activity in the account, including a direction by the apparent owner to increase, decrease or change the amount or type of personal property held in the account,
- (c) in the case of a bank account subject to this Act, the making of a deposit to or a withdrawal from the account,
- (d) in the case of an insurance policy, the payment or other satisfaction in respect of a premium with respect to a personal property interest in the policy, and
- (e) an action taken in accordance with the regulations,

but does not include a communication with the apparent owner by a person other than the holder or its representative who has not in writing identified the personal property to the apparent owner.

(5) Where the personal property is apparently owned jointly by 2 or more persons, communication concerning or an indication of interest in the personal property for the purposes of subsection (3) may be provided by any one of the apparent owners.

(6) Personal property is payable or distributable for the purposes of this Act on the day on which the apparent owner could have made a demand or presented an instrument or document required to obtain payment, despite the apparent owner's failure to make a demand or present an instrument or document otherwise required to obtain payment.

#### **Notice to apparent owner**

**5(1)** A holder of unclaimed personal property must provide a written notice that complies with subsection (2) to the apparent owner of that personal property at least 3 months, but not more than 8 months, before the date by which the holder is required to comply with section 7(2) to (4) in relation to that unclaimed personal property.

(2) A notice required under subsection (1) must be delivered to the apparent owner's last known address shown in the records of the holder and must

- (a) identify the unclaimed personal property,
- (b) state that the unclaimed personal property is subject to this Act,
- (c) identify the holder and state that the holder is holding the unclaimed personal property, and
- (d) contain any other prescribed information.

(3) Notwithstanding subsection (1), a holder of unclaimed personal property is not required to provide notice to the apparent owner of the unclaimed personal property before complying with section 7(2) to (4) if the holder has reasonable grounds to believe that the last known address for the apparent owner shown in the records of the holder is not correct and the correct address cannot reasonably be ascertained.

(4) For the purposes of this section, a holder may collect, use and disclose personal information about or identifiers of an apparent owner in order to determine the current address of the apparent owner.

**Fees**

**6(1)** A holder shall not impose a fee for providing a notice to an apparent owner under section 5(1) unless the holder regularly imposes the fee and does not regularly reverse or cancel the fee and

- (a) the imposition of a fee is authorized by a written contract between the holder and the apparent owner, or
- (b) the fee is reasonable and does not exceed any amount prescribed for the purposes of this subsection.

**(2)** A holder shall not impose a charge against an apparent owner because the apparent owner has failed to communicate with the holder or because there have been no transactions with respect to the property unless the holder regularly imposes the charge and does not regularly reverse or cancel the charge and

- (a) the imposition of a charge is authorized by a written contract between the holder and the apparent owner, or
- (b) the charge is reasonable and does not exceed any amount prescribed for the purposes of this subsection.

**(3)** For the purposes of this section, ceasing to make payment of interest is deemed to be the imposition of a charge or fee and the amount of the unpaid interest is deemed to be the amount of the charge or fee.

**(4)** Unless the imposition of a charge is prohibited by a written contract between a holder and an apparent owner, the holder may, subject to the regulations, impose a charge against the apparent owner consisting of the actual costs incurred by the holder in paying, transferring or delivering property to the Minister in accordance with section 7(2), 9(2) or 10(1).

**(5)** A reference to a written contract in subsection (1)(a), (2)(a) or (4) includes a group insurance contract.

**(6)** For the purposes of sections 7, 8 and 39(12), a reference to a fee includes a charge that may be imposed pursuant to this section.

**Duties of holder**

**7(1)** A person who, on December 31 in any year, is the holder of unclaimed personal property that is presumed to be abandoned in accordance with section 4 must, within 120 days of the end of that year or within any extension of that period that the Minister grants under subsection (5), comply with subsections (2) to (4) if

- (a) the holder is an individual who is ordinarily resident in Alberta, or
  - (b) in the case of a holder that is not an individual,
    - (i) the last known address for the apparent owner shown in the records of the holder is in Alberta and the holder carries on business in Alberta,
    - (ii) the last known address of the apparent owner shown in the records of the holder is in a reciprocating jurisdiction in which the holder does not carry on business and the holder is based in Alberta, or
    - (iii) the records of the holder do not show the identity of the apparent owner or, if an identity is shown, do not show any address for the apparent owner, and the holder is based in Alberta.
- (2)** A reporting holder must, within the time limited by subsection (1),
- (a) subject to the regulations, prepare a report in the form required by the Minister respecting the unclaimed personal property that is presumed to be abandoned in accordance with section 4 of which the reporting holder was a holder at the end of the preceding calendar year,
  - (b) identify separately in the report
    - (i) the unclaimed personal property to which the report refers,
    - (ii) any fees imposed in accordance with section 6 with respect to the unclaimed personal property referred to in subclause (i), and
    - (iii) any other information prescribed in the regulations,
  - (c) include in the report with respect to each item of unclaimed personal property referred to in clause (b)(i) the last known address and the social insurance number, if known, of the apparent owner and any other information respecting the apparent owner prescribed in the regulations,
  - (d) deliver the report to the Minister, and
  - (e) subject to section 14(3) and the regulations,



- (i) pay, transfer or deliver to the Minister the unclaimed personal property referred to in clause (b)(i) net of any fees imposed in accordance with section 6, or
- (ii) serve on the Minister a written objection in the form required by the Minister setting out the basis on which the reporting holder objects to paying, transferring or delivering the unclaimed personal property to the Minister.

**(3)** If for any reason the records available to the reporting holder are not sufficiently complete to allow the reporting holder to provide all the information required under subsection (2), the reporting holder must, within the time limited by subsection (1), comply with subsection (2) to the extent possible.

**(4)** Notwithstanding subsection (2)(e)(i), if the reporting holder is not able to effect payment, transfer or delivery of the unclaimed personal property within the time limited by subsection (1), the reporting holder must pay to the Minister in place of the unclaimed personal property the amount that the Minister estimates, on the basis of the reporting holder's records or another reasonable method of estimation, to be equivalent to the value of the unclaimed personal property that ought to have been paid, transferred or delivered by the reporting holder under subsection (2)(e)(i), unless

- (i) the reporting holder serves on the Minister a written objection pursuant to subsection (2)(e)(ii), or
- (ii) the reporting holder, in accordance with the regulations, is not obligated to make the payment.

**(5)** Before the date for delivering the report, a reporting holder may request the Minister to extend the time for delivering the report and for paying, transferring or delivering the unclaimed personal property, and the Minister may grant the extension.

**(6)** An objection served by a holder under this section or section 9 must be resolved in accordance with section 59.

**(7)** Where a holder has paid, transferred or delivered property to the Minister in error under this section or section 9, 10, 17 or 18, the holder may apply to the Minister in the form required by the Minister for return of the property.

**Recovery of fees**

**8(1)** Where a holder is entitled under section 6 to impose a fee in respect of unclaimed personal property and the holder has a right pursuant to a contract or an enactment of Alberta or of Canada to recover the fee by taking an action in relation to the personal property, the holder may take the action authorized by the contract or the applicable enactment to recover the fee.

**(2)** If the action referred to in subsection (1) is a sale of the property, the holder must pay any proceeds of the sale in excess of the fee to the Minister in accordance with section 7.

**(3)** Where the holder is not entitled to sell the personal property to recover the fee and the personal property is required to be or may be paid, transferred or delivered to the Minister, the holder may advise the Minister of the amount of the outstanding fee, and the Minister must record that amount as an amount to be reimbursed to the holder if

- (a) the owner, in accordance with section 48, reimburses the Minister for the amount of the fee, or
- (b) the Minister sells the personal property, unless the proceeds are less than the total of the amount of the outstanding fee and the Minister's costs of administering the property to that date, in which case the proceeds must be distributed in accordance with the regulations.

**Claim of unclaimed personal property by Minister**

**9(1)** The Minister may at any time, in writing, claim unclaimed personal property from a holder.

**(2)** Whether or not a holder is a reporting holder when a claim is made under subsection (1), the holder must, subject to section 14(3), pay, transfer or deliver to the Minister, within 120 days after receiving the Minister's claim, the unclaimed personal property referred to in the claim along with a report that complies with the requirements of section 7(2), unless

- (a) the unclaimed personal property is not within the holder's power or control, in which case the holder must pay to the Minister an amount that the Minister estimates, on the basis of the holder's records or another reasonable method of estimation, to be equivalent to the value of the unclaimed personal property that ought to have been paid, transferred or delivered by the holder under this subsection, or

(b) the holder, within the 120-day period, serves on the Minister a written objection in the form required by the Minister setting out the basis on which the holder objects to paying, transferring or delivering the unclaimed personal property to the Minister.

(3) In accordance with the regulations, if the Minister claims unclaimed personal property from a holder under this section, the Minister must, within 120 days from the date on which the Minister receives the unclaimed personal property, provide notice to the apparent owner that

- (a) identifies the unclaimed personal property,
- (b) states that the unclaimed personal property is subject to this Act,
- (c) states that the Minister is holding the unclaimed personal property, and
- (d) contains any other prescribed information.

**Voluntary payment, transfer or delivery**

**10(1)** Subject to section 14(3), a holder may at any time, under the conditions prescribed in the regulations, pay, transfer or deliver personal property, including personal property the net value of which is less than the amounts set out in section 3(4)(b), to the Minister

- (a) before the personal property becomes unclaimed personal property, or
- (b) before a report under section 7(2) is required in respect of the personal property.

(2) A holder who pays, transfers or delivers personal property to the Minister under this section must provide with the personal property a report that complies with the requirements of section 7(2).

(3) Where the Minister receives personal property under this section before it would otherwise become unclaimed personal property under this Act,

- (a) the Minister must determine the day on which the personal property becomes unclaimed personal property in accordance with section 4 and the regulations, and

(b) the claim period referred to in section 48(8) or 49(9) with respect to the personal property does not end until 10 years after the day determined by the Minister under clause (a).

(4) Subject to subsection (3), personal property received by the Minister under this section is deemed to be unclaimed personal property for the purposes of this Act from the time it is received.

(5) If the Minister receives personal property under this section, the Minister must, within 120 days from the date on which the Minister receives the personal property, provide notice to the apparent owner in accordance with section 9(3).

#### **Delivery of records**

**11(1)** If a holder pays, transfers or delivers personal property, or pays an amount as equivalent value for personal property, to the Minister under section 7, 9 or 10, the Minister may require the holder to deliver to the Minister the records relating to that personal property, whether or not the personal property is unclaimed personal property.

(2) A holder

- (a) must comply with any demand made under subsection (1) within the time required by the Minister, and
- (b) may, whether or not a demand is made under subsection (1), deliver to the Minister any record relating to the personal property that the Minister decides to accept.

#### **Demand for additional information**

**12(1)** Whether or not the unclaimed personal property of which a person is a holder is paid, transferred or delivered to the Minister under this Act, the Minister may, for the purpose of ensuring compliance with this Act and the regulations, make one or both of the following demands to the holder of the unclaimed personal property:

- (a) a demand that the holder deliver to the Minister a report or a supplementary report, in the required form, in relation to the unclaimed personal property;
- (b) a demand that the holder deliver to the Minister any information or records specified by the Minister in the possession or control of the holder respecting or relating in any way to the unclaimed personal property or the apparent owner of it.

(2) A demand under subsection (1) must be served on the holder by

- (a) personal delivery,
- (b) registered mail, or
- (c) any other means, or in any other manner, that may be prescribed.

(3) A holder who receives a demand under this section must comply with the demand within 30 days after receipt unless a longer period is authorized by the Minister.

#### **Retention of records**

**13** A holder who pays, transfers or delivers personal property, or pays an amount as equivalent value for personal property, to the Minister under section 7, 9 or 10 must retain possession or control, for 10 years after complying with the applicable section, of all of the records relating to the personal property that are not delivered to the Minister under section 11 or 12 and that

- (a) could be used in identifying or locating the owner or apparent owner of the personal property, or
- (b) describe or could be used in determining the value of the personal property at the time it was paid, transferred or delivered to the Minister.

#### **Liability and obligations of holder**

**14(1)** A holder who in accordance with section 7, 9 or 10 pays, transfers or delivers personal property, or pays an amount as equivalent value for personal property, to the Minister is relieved from all liability in respect of the personal property to the extent of the payment or the value of the personal property at the time it was transferred or delivered.

(2) The relief from liability in respect of personal property granted to a holder pursuant to subsection (1) includes relief from liability for any increase or decrease in the value of the personal property after it is paid, transferred or delivered to the Minister.

(3) Subject to the regulations, a holder must, in relation to any payment, transfer or delivery the holder may or must make to the Minister under this Part, make the same withholdings and remittances that the holder would be required to make under the *Income Tax Act* (Canada) or another enactment as if the holder were making the payment, transfer or delivery to the apparent

owner, and the Minister is entitled to receive from the holder only that portion of the payment, transfer or delivery that the apparent owner would be entitled to receive from the holder after all of those withholdings and remittances have been made.

(4) Nothing in subsection (1) relieves a holder of the holder's obligations under subsection (3) or sections 11 to 13.

(5) No holder is exempt from the obligation to provide the information or records required pursuant to section 11, 12, 19 or 20 by reason that the information or records are privileged.

(6) A disclosure of personal information or identifiers under this section does not negate or constitute a waiver of any privilege and the privilege continues for all other purposes.

## Part 2 Vested Property

### When property vests in Crown

**15** Property vests in the Crown in right of Alberta

- (a) subject to section 227 of the *Business Corporations Act*, if it was owned by a corporation or a society and was not disposed of at the date of dissolution of the corporation or the society under section 229 of the *Business Corporations Act*, at the date of dissolution,
- (b) subject to section 327 of the *Cooperatives Act*, if it was owned by a cooperative and was not disposed of at the date of dissolution of the cooperative under section 330 of the *Cooperatives Act*, at the date of dissolution,
- (c) if it was owned by a company that was dissolved before April 12, 1961 and was not disposed of before the coming into force of this section, on the coming into force of this section,
- (d) in the case of personal property, if it was owned by an intestate who died while resident in Alberta, in accordance with Part 3 of this Act,
- (e) in the case of land in Alberta, if it was owned by an intestate, in accordance with Part 3 of this Act,
- (f) in the case of unclaimed personal property referred to in section 4 and not claimed under Part 6 of this Act, other than personal property referred to in clause (a), (b), (c) or (d), at the end of 10 years after the date on which the

unclaimed personal property, or an amount as equivalent value for it, is paid, transferred or delivered to the Minister, and

- (g) in the case of personal property prescribed in the regulations, in accordance with the regulations.

## **Division 1 Vested Personal Property**

### **Duties of holder**

**16** For the purpose of determining the duties of a holder with respect to vested personal property in the hands of the holder, the vested personal property must be treated as if it were unclaimed personal property, and sections 4, 5, 6, 7 and 8 and the regulations apply to it with any necessary modifications.

### **Claim of vested personal property by Minister**

**17(1)** The Minister may at any time, in writing, claim vested personal property from a holder.

**(2)** Whether or not a holder is a reporting holder when a claim is made under subsection (1), the holder must, subject to section 22(3), pay, transfer or deliver to the Minister, within 120 days after receiving the Minister's claim, the vested personal property referred to in the claim along with a report that complies with the requirements of section 7(2), unless

- (a) the vested personal property is not within the holder's power or control, in which case the holder must pay to the Minister in place of the vested personal property an amount that the Minister estimates, on the basis of the holder's records or another reasonable method of estimation, to be equivalent to the value of the vested personal property that ought to have been paid, transferred or delivered by the holder under this subsection, or
- (b) the holder, within the 120-day period, serves on the Minister a written objection in the form required by the Minister setting out the basis on which the holder objects to paying, transferring or delivering the vested personal property to the Minister.

**(3)** An objection served by a holder under this section must be resolved in accordance with section 59.

**Voluntary payment, transfer or delivery**

**18(1)** Subject to section 22(3), a holder may, under the conditions prescribed in the regulations, pay, transfer or deliver vested personal property to the Minister.

**(2)** A holder who pays, transfers or delivers vested personal property to the Minister under this section must provide with the vested personal property a report that complies with the requirements of section 7(2).

**Delivery of records**

**19(1)** If a holder pays, transfers or delivers vested personal property, or pays an amount as equivalent value for vested personal property, to the Minister under section 17 or 18, the Minister may require the holder to deliver to the Minister the records relating to that vested personal property.

**(2)** A holder

- (a) must comply with any demand made under subsection (1) within the time required by the Minister, and
- (b) may, whether or not a demand is made under subsection (1), deliver to the Minister any record in relation to the vested personal property that the Minister decides to accept.

**Demand for additional information**

**20(1)** Whether or not the vested personal property of which a person is a holder is paid, transferred or delivered to the Minister under this Act, the Minister may, for the purpose of ensuring compliance with this Act and the regulations, make one or both of the following demands to the holder of the vested personal property:

- (a) a demand that the holder deliver to the Minister a report or a supplementary report, in the required form, in relation to the vested personal property;
- (b) a demand that the holder deliver to the Minister any information or records specified by the Minister in the possession or control of the holder respecting or relating in any way to the vested personal property.

**(2)** A demand under subsection (1) must be served on the holder by

- (a) personal delivery,



- (b) registered mail, or
  - (c) any other means, or in any other manner, that may be prescribed.
- (3) A holder who receives a demand under this section must comply with the demand within 30 days after receipt unless a longer period is authorized by the Minister.

**Retention of records**

**21** A holder who pays, transfers or delivers vested personal property, or pays an amount as equivalent value for vested personal property, to the Minister under section 17 or 18 must retain possession or control, for 10 years after complying with the applicable section, of all of the records relating to the vested personal property that are not delivered to the Minister under section 19 or 20 and that

- (a) could be used in identifying or locating the owner or apparent owner of the personal property, or
- (b) describe or could be used in determining the value of the personal property at the time it was paid, transferred or delivered to the Minister.

**Liability and obligations of holder**

**22(1)** A holder who, in accordance with section 17 or 18, pays, transfers or delivers vested personal property, or pays an amount as equivalent value for vested personal property, to the Minister is relieved from all liability in respect of the vested personal property to the extent of the payment or the value of the vested personal property at the time it was transferred or delivered.

(2) The relief from liability in respect of vested personal property granted to a holder pursuant to subsection (1) includes relief from liability for any increase or decrease in the value of the vested personal property after it is paid, transferred or delivered to the Minister.

(3) Subject to the regulations, a holder must, in relation to any payment, transfer or delivery the holder may or must make to the Minister under this Part, make the same withholdings and remittances that the holder would be required to make under the *Income Tax Act* (Canada) or another enactment as if the holder were making the payment, transfer or delivery to the former owner, and the Minister is entitled to receive from the holder only that portion of the payment, transfer or delivery that the former owner

would be entitled to receive from the holder after all of those withholdings and remittances have been made.

(4) Nothing in subsection (1) relieves a holder of the holder's obligations under subsection (3) or sections 19 to 21.

## Division 2 Vested Land

### Interpretation

**23** For the purposes of this Division,

- (a) "approved form" means a form approved pursuant to section 24;
- (b) "Registrar" means the Registrar of Titles appointed under the *Land Titles Act*.

### Forms

**24** The forms to be used for the purposes of sections 26, 27, 28 and 31 must be approved by both the Minister and the Minister responsible for the *Land Titles Act*.

### Searches

**25** For the purpose of administering this Act, the Minister may direct the Registrar to furnish a search of the information contained in the register of titles to land kept in accordance with the *Land Titles Act*.

### Caveats

**26(1)** The Minister may file a caveat with the Registrar protecting the Crown's interest in vested land.

(2) Notwithstanding section 138 of the *Land Titles Act*, a caveat filed pursuant to this section does not lapse.

(3) The Minister may withdraw a caveat filed under subsection (1) by filing with the Registrar a notice of withdrawal in the approved form if the owner or former owner has reimbursed the Crown for expenses and administration fees, if any, incurred by the Crown in respect of the land and the Minister is satisfied that

- (a) the corporation, society or cooperative has revived and the land is no longer vested in the Crown,

- (b) the Crown is no longer the heir of the estate or of the portion of the estate that consists of the land,
- (c) it is not proper for any reason for the caveat to be or to remain filed against the land, or
- (d) any other circumstances prescribed in the regulations are present.

**Crown as owner of vested land**

**27(1)** Subject to section 28, the Minister may, in the approved form, direct the Registrar to cancel an existing certificate of title with respect to vested land and to issue a new certificate of title in favour of the Crown.

**(2)** Subject to subsection (3), the Minister may make a direction to the Registrar under subsection (1) at any time after the land has vested in the Crown.

**(3)** Where the registered title holder of vested land was a corporation, cooperative or society and the time period set out in section 34(1) during which the corporation, cooperative or society may be revived has not expired, the Minister may not instruct the Registrar to take any action with respect to the existing certificate of title to the vested land until 120 days after the date on which a notice of the Minister's intention is sent to the registered title holder.

**Registered interests**

**28(1)** The following registered interests continue to apply to any vested land and may not be removed under this Act from the certificate of title:

- (a) an encumbrance arising from a claim of the Crown in right of Canada;
- (b) a registered interest pursuant to the *Irrigation Districts Act* or the *Drainage Districts Act*;
- (c) a caveat referred to in section 39(12) of the *Condominium Property Act*;
- (d) a right registered pursuant to section 69 of the *Land Titles Act*;
- (e) a right of entry order as defined in the *Surface Rights Act* registered under the *Land Titles Act*;

- (f) a notice of lien endorsed on a certificate of title pursuant to section 38 of the *Rural Utilities Act*;
  - (g) a notice of lien endorsed on a certificate of title pursuant to section 20 of the *Rural Electrification Loan Act*;
  - (h) a notice of lien endorsed on a certificate of title pursuant to section 21 of the *Rural Electrification Long-term Financing Act*;
  - (i) a tax recovery notification endorsed on a certificate of title pursuant to section 413 of the *Municipal Government Act*;
  - (j) a registered environmental protection order issued pursuant to section 224 of the *Environmental Protection and Enhancement Act*;
  - (k) a registered encumbrance or interest where the encumbrancee or owner of the interest has taken active steps to enforce its security against the land in accordance with subsection (4);
  - (l) an interest in land prescribed by regulation.
- (2) Subject to subsection (1), if land has vested in the Crown, the Minister may give notice to any encumbrancee or other person with a registered interest against the vested land of the Minister's intention to direct the Registrar to remove the registered encumbrance or interest from the title to the vested land.
- (3) The giving of a notice by the Minister under subsection (2) of intention to remove an encumbrance or other registered interest in respect of mines and minerals must be approved by the Minister responsible for the *Mines and Minerals Act*.
- (4) When the Minister gives notice under subsection (2), an encumbrancee or other person with a registered interest against the vested land
- (a) may commence an action or take steps to enforce the encumbrance or interest if any applicable limitation period with respect to the encumbrance or interest has not expired, and
  - (b) must notify the Minister, in the approved form, of any action or steps taken under clause (a) within 120 days of the date on the notice.
- (5) If a certificate of title has been issued under section 27 in favour of the Crown, the Minister may at any time after the end of

the 120-day period referred to in subsection (4)(b) direct the Registrar, in the approved form, to remove from the certificate of title to vested land any encumbrance or other registered interest where the encumbrancee or the person with the registered interest has not complied with subsection (4), and the encumbrance or other registered interest, on being removed from the certificate of title, is extinguished.

(6) The Minister is not liable for any costs, losses or damages arising from any encumbrance or registered interest if the costs arose or became payable before the date on which the land vests in the Crown.

(7) The Minister is not liable for any costs arising from an encumbrance or registered interest if the costs arise or become payable after the date on which the land vests in the Crown unless

- (a) the Minister has actual knowledge of the encumbrance or registered interest, and
- (b) the Minister has accepted the encumbrance or registered interest and has notified the encumbrancee or person with the registered interest of the decision to accept it.

(8) Except as specifically provided in this section, nothing in this section prevents a creditor from enforcing a registered interest in vested land that the creditor has under another enactment.

#### **Transfer and sale of vested land**

**29(1)** The Minister is responsible for the administration of vested land and vested property that relates to land.

(2) Subject to subsection (3), the Minister may transfer, and any Minister may subsequently transfer, the administration of any interest in land

- (a) that has vested in the Crown and to which this Act applies, and
- (b) that is under the administration of the Minister,

to any other Minister with the written consent of the Minister to whom the administration is to be transferred.

(3) All interests in respect of mines and minerals

- (a) must be transferred by the Minister to the Minister responsible for the *Mines and Minerals Act*;

(b) may be sold or otherwise disposed of only by the Minister responsible for the *Mines and Minerals Act* in accordance with that Act.

(4) Revenue and expenses, including administration fees, associated with vested land that has been transferred under subsection (2) must be accounted for by the Minister to whom responsibility for the vested land has been transferred in accordance with this Act and the regulations.

(5) The Minister, or the Minister to whom responsibility for vested land has been transferred, may at any time sell or otherwise dispose of the vested land.

(6) A sale or other disposition of vested land under this Act must be in accordance with the regulations.

#### **Inspection**

**30(1)** The Minister may inspect vested land at the Minister's discretion at any time.

(2) An inspection by the Minister under subsection (1) does not constitute possession or control of the land for the purposes of section 5(5) of the *Proceedings Against the Crown Act*.

(3) The Minister is not a person responsible, within the meaning of the *Environmental Protection and Enhancement Act*, with respect to any substance present in, on or under land to which this Act applies merely because the land has vested in the Crown.

#### **Crown as encumbrancee of land**

**31(1)** In this section, "interest" means an encumbrance, registered interest or similar interest in land, but does not include a fee simple.

(2) When an interest in land vests in the Crown pursuant to this Act, the Minister may accept or disclaim the interest in accordance with the regulations.

(3) The Minister is not liable for any costs arising from an interest in land if the costs arose or became payable before the date on which the interest vests in the Crown.

(4) The Minister is not liable for any costs arising from an interest in land if the costs arise or become payable after the interest vests in the Crown unless

(a) the Minister has actual knowledge of the interest, and

- (b) the Minister has accepted the interest.
- (5) The Minister must notify the owner of the land of a decision made under subsection (2) in accordance with the regulations.
- (6) Where the Minister has accepted an interest under this section, the Minister may, in the approved form, direct the Registrar to transfer the registration of the interest into the name of the Crown.

### **Part 3 Estates**

#### **Application and interpretation**

**32(1)** In this Part, “intestate estate” has the same meaning as in Part 3 of the *Wills and Succession Act*.

- (2) This Part applies to the intestate estate of an individual
  - (a) who dies after this Act comes into force, or
  - (b) who died before this Act came into force, to the extent that the administration of the intestate estate has not been completed before this Act comes into force.

2007 cU-1.5 s32;2010 cW-12.2 s124

#### **Transfer and vesting of estate**

**33(1)** A personal representative of an intestate in respect of all or any portion of the intestate’s estate who has not within 2 years after the grant of administration learned of any person entitled by law to the estate, or a portion of it, must, subject to section 22(3), pay, transfer or deliver the estate or the portion, as the case may be, and any information or records relating to it to the Minister, and on doing so the personal representative is discharged from liability in respect of the property paid, transferred or delivered.

(2) Property paid, transferred or delivered to the Minister by a personal representative in accordance with subsection (1) vests in the Crown as of the date on which it is paid, transferred or delivered.

(3) A person who claims to be entitled to an estate or a portion of an estate that has been paid, transferred or delivered to the Minister under this section may assert a claim in accordance with section 48.

## Part 4 Corporations, Societies and Cooperatives

### Revival of corporation, society or cooperative

**34(1)** If a corporation, society or cooperative that has been dissolved under the enactment applicable to the corporation, society or cooperative is revived within 5 years after the date of dissolution, the corporation, society or cooperative may assert a claim in accordance with section 48 regarding property of the corporation, society or cooperative that was paid, transferred or delivered to the Minister under this Act.

**(2)** The Minister is not liable for any action taken under this Act between the date of dissolution of a corporation, society or cooperative and the date of its revival, notwithstanding that

- (a) a revived corporation or society is deemed always to have existed pursuant to sections 208 and 210 of the *Business Corporations Act*, and
- (b) a revived cooperative is restored to its previous position in law pursuant to section 329(6) of the *Cooperatives Act*.

### Sale of vested property of corporation, society or cooperative

**35(1)** No person other than a Minister may sell or otherwise dispose of the vested property of a dissolved corporation, society or cooperative after the date of its dissolution.

**(2)** Subject to subsection (3), the Minister may bring an action for an amount as equivalent value for the vested property of a dissolved corporation, society or cooperative that was sold in contravention of subsection (1) against the purchaser or the former directors or officers of the dissolved corporation, society or cooperative, as the case may be, or all of them.

**(3)** The Minister may not bring an action under subsection (2) where a dissolved corporation, society or cooperative is revived within 5 years of the date of its dissolution.

**(4)** A bona fide purchaser for value or a former director or officer of a dissolved corporation, society or cooperative is not liable under subsection (2) if the purchaser or the former director or officer exercised the care, diligence and skill that a reasonably prudent person would exercise in determining whether the sale of the property was lawful before it was sold.



(5) Nothing in this section prevents a bona fide purchaser for value from obtaining title to vested land in accordance with the *Land Titles Act*.

## Part 5 Administration

### Unclaimed Personal Property and Vested Property

#### Unclaimed personal property held in trust

**36(1)** Subject to section 38, unclaimed personal property paid, transferred or delivered to the Minister or amounts paid to the Minister as equivalent value for unclaimed personal property must be held in trust until the end of the claim period specified in section 48(8).

(2) Unclaimed personal property referred to in subsection (1) must be administered in accordance with this Act and the regulations during the claim period specified in section 48(8).

#### Vested property

**37(1)** Subject to section 38, vested property that is paid, transferred or delivered to the Minister or amounts paid to the Minister as equivalent value for vested property must be held until the end of the claim period specified in section 48(8).

(2) Vested property referred to in subsection (1) must be administered in accordance with this Act and the regulations during the claim period specified in section 48(8).

#### Powers and duties of Minister

**38(1)** In this section,

- (a) “appropriate person” means an appropriate person as defined in the *Securities Transfer Act*;
- (b) “endorsement” means an endorsement as defined in the *Securities Transfer Act*;
- (c) “unclaimed personal property” includes
  - (i) personal property, including personal property the net value of which is less than the amounts set out in section 3(4)(b), paid, transferred or delivered to the Minister under section 10 before it becomes unclaimed personal property, and

- (ii) amounts paid as equivalent value for personal property before it becomes unclaimed personal property.

**(2)** Subject to this Act, the Minister may, in relation to unclaimed personal property, exercise all the rights and powers of a legal and equitable owner of that unclaimed personal property and

- (a) may dispose of the unclaimed personal property in any manner the Minister considers reasonable,
- (b) if investing unclaimed personal property or proceeds from the sale of unclaimed personal property, must do so in accordance with investment policies, standards and procedures that a reasonable and prudent person would apply in respect of a portfolio of investments to avoid undue risk of loss and obtain a reasonable return,
- (c) if the unclaimed personal property is a certificated security registered in the name of the apparent owner, the Minister is the appropriate person in place of the apparent owner and may make an endorsement in place of the apparent owner for the purpose of dealing with or disposing of the certificated security in accordance with the applicable law, and
- (d) if the unclaimed personal property is a negotiable instrument, may deal with it in accordance with the regulations.

**(3)** The Minister may, if the Minister considers it prudent to do so, retain the unclaimed personal property in the form in which it was paid, transferred or delivered to the Minister.

**(4)** The Minister may attempt to locate owners of unclaimed personal property or vested property received by the Minister under this Act and may collect information from any person for this purpose.

**(5)** The Minister may employ or otherwise contract with those persons the Minister considers appropriate for the purpose of locating owners of unclaimed personal property received by the Minister under this Act, and where the Minister does so, those persons may collect, use and disclose information as authorized by this Act, the regulations or the contract of employment or service.

**(6)** If the Minister contracts with a person to locate owners of unclaimed personal property or vested property, the Minister must enter into an agreement with the contractor providing for the protection of personal information and control of records created or

collected by the contractor for the purpose of providing the contracted services.

(7) Any endorsement made by the Minister as the appropriate person under subsection (2)(c) must be accompanied with a certificate of the Minister stating that the endorsement has been made by the Minister under the authority of this Act.

#### **Revenue and expenses**

**39(1)** In subsections (2), (3), (4), (8), (9), (10) and (11), “Minister” includes the Minister responsible for the administration of this Act and any other Minister to whom responsibility for the administration of vested property has been transferred under section 29, as the context requires.

(2) Subject to subsection (3), revenue earned by property

- (a) where the property is unclaimed personal property or an amount paid as equivalent value for unclaimed personal property, during the period commencing on the date the property or amount is paid, transferred or delivered to the Minister and ending on the earliest of the date on which the property or amount is returned to the claimant under section 48, the date on which the property or that portion of the property is paid, transferred or delivered to a claimant under section 49 and the date on which rights to the property are extinguished pursuant to section 48(9) or 49(10),
- (b) where the property is vested property formerly owned by an intestate, during the period commencing on the date on which the property is paid, transferred or delivered to the Minister and ending on the earliest of the date on which the property or amount is returned to the claimant under section 48, the date on which the property or that portion of the property is paid, transferred or delivered to a claimant under section 49 and the date on which rights to the property are extinguished pursuant to section 48(9) or 49(10),
- (c) where the property is vested property formerly owned by a corporation, cooperative or society that was not disposed of at the date of dissolution and that has been paid, transferred or delivered to the Minister, during the period commencing on the date of dissolution and ending on the earliest of the date on which the property is returned to the claimant under section 48, the date on which the property or that portion of the property is paid, transferred or delivered to a claimant under section 49 and the date on which rights to the property are extinguished pursuant to section 48(9) or 49(10), or

- (d) where the property is vested property formerly owned by a corporation, cooperative or society that was not disposed of at the date of dissolution and the corporation, cooperative or society has not revived within 5 years from the date of dissolution, during the period commencing on the date of dissolution and ending 5 years after that date,

is the property of the Crown.

**(3) Where**

- (a) vested property formerly owned by a corporation, cooperative or society was not disposed of at the date of dissolution,
- (b) the property has not been transferred to the Minister, and
- (c) the corporation, cooperative or society is revived within 5 years from the date of dissolution,

revenue earned by the property during the period commencing on the date of dissolution and ending on the date on which the corporation, cooperative or society is revived is not subject to this Act.

**(4)** The Minister may charge reasonable expenses, including administration fees, as prescribed in the regulations, in respect of unclaimed personal property, vested property or amounts paid as equivalent value for unclaimed personal property or vested property,

- (a) against the revenue earned by the property, or
- (b) where the revenue earned by the property is insufficient to pay the expenses and administration fees,
  - (i) in the case of unclaimed personal property or vested personal property, against the personal property, or in the case of an amount paid as equivalent value for unclaimed personal property or vested personal property, against the principal, up to the value of the personal property or the total of the amount or the amount of the expenses and administration fees, whichever is less,
  - (ii) in the case of vested land except vested land that is part of an estate, against the vested land and the former owner of it, and
  - (iii) in the case of vested land that is part of an estate, against the vested land and the estate.

(5) The Minister must account separately for the revenue earned by, and the expenses and administration fees incurred in respect of or charged against, each item of unclaimed personal property or each item of vested property or each amount while the item or amount is in the Minister's possession, and where items of unclaimed personal property or vested personal property or amounts are invested on an aggregate basis, the investment revenue must be allocated proportionally to each item or amount.

(6) Where the Minister has retained unclaimed personal property in the form in which it was paid, transferred or delivered to the Minister, the Minister must in respect of a claim allowed under section 48 or 49 require the claimant to pay any amount by which the expenses and administration fees incurred in respect of or charged against the unclaimed personal property exceed the revenue from the property before returning, paying, transferring or delivering the property to the claimant.

(7) If the expenses and administration fees exceed the value of the unclaimed personal property or the total of the amount paid as equivalent value for the unclaimed personal property, the Minister may retain the property or amount.

(8) If a claim is allowed under section 48 or 49 in respect of vested property, the Minister must require the claimant to pay the outstanding expenses and administration fees before returning, paying, transferring or delivering the property to the claimant.

(9) Notwithstanding that a person who was a former owner of vested land has not made a claim under section 48 in respect of the vested land, the former owner is liable for all of the Crown's expenses and administration fees in relation to the vested land, and the total amount of the expenses and administration fees may be recovered by the Minister as a debt owing to the Crown.

(10) The Minister may at any time transfer net revenue earned by unclaimed personal property, or by an amount paid to the Minister as equivalent value for unclaimed personal property, to the General Revenue Fund.

(11) Where

- (a) the Minister has received more than one item of unclaimed personal property or vested property, or amounts paid as equivalent value for the unclaimed personal property or vested property, of an apparent owner or former owner, and
- (b) the total amount of expenses and administration fees incurred in respect of or charged against the revenue from or

value of a single item of the unclaimed personal property or vested property of the apparent owner or former owner exceeds the value of that item,

the Minister may offset the excess against the revenue from, or value of, the apparent owner's or former owner's other unclaimed personal property or vested property or amounts paid as equivalent value for the unclaimed personal property or vested property in the possession of the Minister.

(12) Where a holder is entitled under section 8 to recover the amount of an outstanding fee, the Minister may pay that amount to the holder in accordance with the regulations and that amount is an expense that may be charged under subsections (4) and (6).

#### **Registered interests**

**40(1)** Where an enactment requires notice to be given by a creditor who proposes to enforce a registered interest to the owner of the property that is subject to the registered interest and

- (a) the property is unclaimed personal property or vested personal property that has been paid, transferred or delivered to the Minister, or
- (b) the property is vested land and the Minister has filed a caveat against the certificate of title or directed the Registrar of Titles appointed under the *Land Titles Act* to cancel the former certificate of title and issue a new certificate of title in the name of the Crown,

the creditor must, in addition to the notice required to be given to the owner, apparent owner or former owner, as the case may be, provide notice to the Minister in accordance with the requirements of the other enactment.

(2) Where vested property subject to this Act has not been paid, transferred or delivered to the Minister, a creditor may provide notice referred to in subsection (1) to the Minister.

(3) The Minister may receive notice from creditors for the enforcement of a security interest in unclaimed personal property or vested property that has been paid, transferred or delivered to the Minister and may take any action the Minister considers necessary or advisable in the circumstances, including, without limitation, attending at any hearing and making representations regarding the property.

(4) A creditor who proceeds to enforce the creditor's registered interest in property that is subject to this Act must pay to the Minister any proceeds from the sale or other disposition of the property in excess of the amount to which the creditor is entitled.

(5) For the purposes of this Act, the registration of an encumbrance or registered interest on a certificate of title or in a registry does not constitute actual knowledge by the Minister of the encumbrance or registered interest.

#### **No liability**

**41** No liability attaches to the Crown, and no action or proceeding may be brought against the Crown, the Minister, a Minister to whom responsibility for vested property has been transferred or any agent or employee of the Crown for any costs, losses or damages arising, directly or indirectly, in respect of any act or thing done or omitted to be done purportedly pursuant to this Act, the regulations or an order or direction of the Minister under this Act.

### **Other Jurisdictions**

#### **Minister's rights and obligations relative to foreign administrators**

**42(1)** In this section, "foreign administrator" means the person who, in another jurisdiction specified in the regulations, exercises a role or function similar to that of the Minister in relation to unclaimed personal property.

(2) If the Minister receives unclaimed personal property under section 7, 9 or 10 or under subsection (3), or receives an amount as equivalent value for unclaimed personal property under section 7(4) or 9(2)(a) or under subsection (3), and a foreign administrator claims that unclaimed personal property or amount from the Minister, the Minister, after considering the foreign administrator's claim, may pay, transfer or deliver to the foreign administrator the unclaimed personal property or amount and deliver any related records in the possession of the Minister if

- (a) the last known address of the owner is in the foreign administrator's jurisdiction or, if no address is known for the owner, the last known address of the apparent owner is in the foreign administrator's jurisdiction, or
- (b) no address is known for the owner or the apparent owner and the holder is based in the foreign administrator's jurisdiction.

- (3) If a foreign administrator receives unclaimed personal property, the Minister may claim and receive from the foreign administrator the unclaimed personal property, or an amount as equivalent value for the unclaimed personal property, and any related records in the possession of the foreign administrator if
- (a) the last known address of the owner is in Alberta or, if no address is known for the owner, the last known address of the apparent owner is in Alberta, or
  - (b) no address is known for the owner or the apparent owner and the holder is based in Alberta.

#### **Agreements with other jurisdictions**

**43(1)** The Minister may enter into one or more agreements with the government of Canada, the government of any province or territory or the government of any other jurisdiction or with the person who, in another jurisdiction, exercises a role or function similar to that exercised by the Minister under this Act, to enable one or both of the contracting parties

- (a) to determine the unclaimed personal property or amounts to which a contracting party is entitled, or
- (b) to collect, use and disclose information and deliver property or amounts to facilitate the return of unclaimed personal property or its value to its rightful owner.

(2) If the Lieutenant Governor in Council is satisfied that a jurisdiction has enacted unclaimed personal property legislation that is substantially similar to the provisions of this Act dealing with unclaimed personal property, the Lieutenant Governor in Council may declare that jurisdiction to be a reciprocating jurisdiction for the purposes of this Act.

### **Agreements**

#### **Agreements to locate property**

**44(1)** An agreement by which a party to the agreement agrees to locate or recover unclaimed personal property or vested property for an owner or apparent owner

- (a) must clearly set out the terms of the agreement, including the estimated value of the unclaimed personal property or vested property and the total cost of the contract to the owner or apparent owner, and



(b) must be in writing and signed by the owner or apparent owner.

(2) A provision in an agreement referred to in subsection (1) is of no force or effect if, in the opinion of the Minister, it provides for unreasonable compensation or expenses or both or is otherwise unconscionable.

(3) The Lieutenant Governor in Council may, for the purposes of subsection (2), prescribe a maximum amount of compensation or expenses or both and may prescribe different maximum amounts based on different values of the unclaimed personal property or vested personal property involved, and in that event, any compensation or expenses or both provided for in an agreement that exceed that prescribed maximum are, for the purposes of subsection (2), unreasonable.

(4) Despite any provision of an agreement referred to in subsection (1), the Minister may pay, transfer or deliver any unclaimed personal property or vested property or pay any amount directly to a claimant who satisfies the Minister under section 48(2)(a).

(5) This section does not apply to an agreement between an owner and a lawyer under which the lawyer agrees to act in his or her professional capacity as lawyer for the owner or apparent owner to assist the owner or apparent owner to locate or recover unclaimed personal property or vested personal property.

#### **No contracting out**

**45** An agreement excluding or purporting to exclude one or more provisions of this Act has no effect.

### **Repository and Registry**

#### **Repository established**

**46(1)** The Minister must establish and maintain a repository of information in electronic or other form containing, during the claim period set out in section 48(8), in respect of each item of property,

- (a) the name of every apparent owner on whose behalf unclaimed personal property has been paid, transferred or delivered, or amounts as equivalent value for unclaimed personal property have been paid, to the Minister under section 7, 9, 10 or 42(3),

- (b) in the case of vested property paid, transferred or delivered to the Minister, the name of the former owner of the property,
- (c) a description of each item of property referred to in clause (a) or (b) that is sufficient to identify it,
- (d) records of all claims, whether successful or not, made in respect of property received by the Minister pursuant to this Act, and
- (e) any other information that in the opinion of the Minister is necessary for the administration of this Act.

(2) Information included in the repository in accordance with subsection (1)(a) to (e) may be removed from the repository after the claim period set out in section 48(8) has expired with respect to the item of property to which that information pertains.

(3) The Minister may collect information for, disclose information from, add information to, correct information in or remove information from the repository as the Minister considers necessary for the administration of this Act.

(4) The Minister may collect any information, reports and other records relating to property that is subject to this Act that the Minister considers necessary for the administration of this Act.

(5) Information about unclaimed personal property, abandoned property or missing owners under another enactment may be included in the repository in accordance with the regulations.

#### **Registry established**

**47(1)** The Unclaimed Personal Property and Vested Property Registry is established.

(2) The purpose of the Registry is to facilitate the return of property to its owners.

(3) Subject to subsection (4), the following information is part of the Registry and is public information that must be provided to the public electronically or by any other means, or in any other manner, that the Minister considers appropriate:

- (a) the names of owners, apparent owners and former owners;
- (b) any other information prescribed in the regulations.

(4) Where a holder has filed with the Minister a written statement that information, records or reports submitted in accordance with section 11, 12, 19 or 20 are privileged, the Minister may release as public information under subsection (3) only the identity of the holder and the location at which the holder carries on business in Alberta and indicate in general terms the nature of the privileged information, records or reports.

(5) The Minister must at least annually publicize the existence of and means of accessing the Registry in a manner that, in the opinion of the Minister, is reasonably sufficient to bring the Registry to the attention of the public.

(6) The Minister may collect information for, disclose information from, add information to, correct information in or remove information from the Registry as the Minister considers necessary for the administration of this Act.

## Part 6 Claims

### Ownership claims

**48(1)** Subject to subsection (8), if under this Act or another enactment unclaimed personal property or vested property has been paid, transferred or delivered to the Minister, or an amount has been paid to the Minister as equivalent value for unclaimed personal property or vested property, a person, governmental organization or other entity who asserts a claim to that unclaimed personal property or vested property or amount may claim that unclaimed personal property or vested property or amount by filing with the Minister a claim in the form required by the Minister that includes

- (a) the full name and address of the claimant,
- (b) the basis on which the claim is made, and
- (c) any other information required by the Minister in support of the claim.

(2) The Minister must, within 120 days after a claim is filed under subsection (1), consider the claim and

- (a) must allow the claim if the Minister is satisfied that the claimant is the owner of the property or amount,
- (b) may allow the claim,

- (i) if the Minister is satisfied that the claimant has a valid entitlement to the property or amount but is prevented from asserting full rights as owner to that property or amount because of a procedural impediment to the claimant assuming those ownership rights, including, without limitation, in the case of an entitlement arising under an estate, the fact that probate or administration has not yet been granted in respect of the estate, or
- (ii) subject to the regulations, if the Minister is satisfied that the claimant is an individual of the 5th or greater degree of relationship to an individual who died intestate and is prevented by section 67(2) of the *Wills and Succession Act* from sharing in the intestate estate,

and

- (c) may deny the claim if the Minister is not satisfied under clause (a) or (b).

**(3)** Notwithstanding subsection (2), the Minister may

- (a) request additional information from, or disclose information to, a claimant for the purpose of resolving the claim, or
- (b) extend the time referred to in subsection (2) if additional time is required to consider the claim.

**(4)** If the Minister allows a claim filed under subsection (1), the Minister must, within 30 days after the claim is allowed, do one of the following:

- (a) if the unclaimed personal property or vested property is to be returned in its original form and there are no amounts owing pursuant to section 39(6) or (8) in respect of it, return the property to the claimant;
- (b) subject to clause (d), if the unclaimed personal property or vested property is to be returned in its original form and there are amounts owing pursuant to section 39(6) or (8) in respect of it, provide the claimant with a summary of the amounts that must be paid before the property is returned;
- (c) subject to section 39(7), if the unclaimed personal property or vested property has been disposed of, pay to the claimant the net proceeds from the disposition of the unclaimed personal property or vested property less the expenses and administration fees charged pursuant to section 39(4);

- (d) subject to section 39(7), if the unclaimed personal property or vested property was received by the Minister in the form of money, pay to the claimant the net amount of the unclaimed personal property or vested property less the expenses and administration fees charged pursuant to section 39(4).
- (5) On receipt of the amount payable by the claimant referred to in subsection (4)(b), the Minister must within 30 days return the property to the claimant.
- (6) If a claimant has not within 120 days paid the amount required pursuant to subsection (4)(b) or served an objection in respect of it on the Minister in accordance with subsection (11), the Minister
- (a) may sell the property, and
  - (b) if the property is sold, must within 30 days from the date of sale pay to the claimant the net proceeds from the sale less the amount payable by the claimant pursuant to subsection (4)(b).
- (7) If vested property that is subject to a claim under subsection (1) has been leased or otherwise encumbered under this Act or another enactment,
- (a) the property when paid, delivered or transferred to the claimant remains subject to the lease or encumbrance, and
  - (b) the lease or encumbrance, if issued as an agreement under the *Mines and Minerals Act* in respect of a mineral, must be administered by the Minister responsible for that Act until the agreement is cancelled, expires or is terminated.
- (8) Subject to section 10(3)(b), a claim under this section may not be brought more than 10 years after the date on which the property or an amount as equivalent value for it was paid, transferred or delivered to the Minister.
- (9) If no claim in respect of unclaimed personal property or vested property has been made within the claim period specified in subsection (8), any right of an owner, an apparent owner or a former owner in relation to the property, whether legal or equitable, is extinguished.
- (10) Notwithstanding subsections (8) and (9), the Minister may, in the circumstances prescribed in the regulations, consider and allow or deny a claim made after the expiry of the claim period specified in subsection (8).

(11) A claimant who objects to a decision of the Minister under subsection (2)(c) or to the amount stated to be owing in respect of the property under subsection (4)(b) or payable to the claimant in respect of the property under subsection (4)(c) may within 120 days serve on the Minister a written objection in the form required by the Minister setting out the basis on which the claimant objects to the decision or the amount.

(12) An objection served by a claimant under subsection (11) must be resolved in accordance with section 59.

(13) The Minister may apply to the Court of Queen's Bench in accordance with the regulations for advice or direction with respect to a claim or competing claims or any matter under this section.

(14) A claimant may, in the form required by the Minister, authorize another person to make a claim under this section on the claimant's behalf.

(15) For the purposes of subsection (3)(a), information disclosed by the Minister may include relevant personal information, including names or identifiers, of the claimant or other claimants.

2007 cU-1.5 s48;2010 cW-12.2 s124

#### **Creditor and other claims**

**49(1)** Subject to subsection (9), where under this Act or another enactment unclaimed personal property or vested property has been paid, transferred or delivered to the Minister, or an amount has been paid to the Minister as equivalent value for unclaimed personal property or vested property, the following may make a claim respecting the unclaimed personal property or vested property or the amount:

- (a) a person, governmental organization or other entity that has obtained a judgment of an Alberta Court or a court in a reciprocating jurisdiction as prescribed under the *Reciprocal Enforcement of Judgments Act*, or a registered writ of enforcement under the *Civil Enforcement Act*, against the owner, apparent owner or former owner of the unclaimed personal property or vested property or the amount;
- (b) a person prescribed in the regulations in the circumstances prescribed in the regulations.

(2) A claim under subsection (1) may be made by filing with the Minister the form required by the Minister and must include

- (a) the full name and address of the claimant,

- (b) the basis on which the claim is made,
  - (c) if the claim is made under subsection (1)(a), a certified copy of the judgment or writ, or another form of copy of the judgment or writ that is acceptable to the Minister, in support of the claim, and
  - (d) any other information required by the Minister in support of the claim.
- (3)** The Minister must, within 120 days after a claim is filed under subsection (2), consider the claim and must
- (a) allow the claim if the Minister is satisfied that the claimant is entitled to the property or amount, or
  - (b) deny the claim if the Minister is not satisfied under clause (a).
- (4)** Notwithstanding subsection (3), the Minister may
- (a) request additional information from, or disclose information to, a claimant for the purpose of resolving the claim, or
  - (b) extend the time referred to in subsection (3) if additional time is required to consider the claim.
- (5)** If the Minister allows a claim filed under subsection (2), the Minister must, within 30 days after the claim is allowed, do one of the following:
- (a) if the unclaimed personal property or vested property has been retained in its original form and there are no amounts owing pursuant to section 39(6) or (8) in respect of it, pay, transfer or deliver the property, or as much of it as is necessary to satisfy the claim, to the claimant;
  - (b) subject to clause (d), if the unclaimed personal property or vested property has been retained in its original form and there are amounts owing pursuant to section 39(6) or (8) in respect of it, provide the claimant with a summary of the amounts that must be paid before the property is paid, transferred or delivered;
  - (c) subject to section 39(7), if the unclaimed personal property or vested property has been disposed of, pay to the claimant the net proceeds from the disposition of the unclaimed personal property or vested property, or as much as is necessary to satisfy the claim, less the expenses and administration fees charged pursuant to section 39(4);

- (d) subject to section 39(7), if the unclaimed personal property or vested property was received by the Minister in the form of money, pay to the claimant the net amount of the unclaimed personal property or vested property less the expenses and administration fees charged pursuant to section 39(4).
- (6) On receipt of the amount payable by the claimant referred to in subsection (5)(b), the Minister must within 30 days pay, transfer or deliver the property, or as much of it as is necessary to satisfy the claim, to the claimant.
- (7) If a claimant has not within 120 days paid the amount required pursuant to subsection (5)(b) or served an objection on the Minister in respect of it in accordance with subsection (11), the Minister
- (a) may sell the property, and
  - (b) if the property is sold, must within 30 days from the date of sale pay to the claimant the net proceeds from the sale, or as much as is necessary to satisfy the claim, less the amount payable by the claimant pursuant to subsection (5)(b).
- (8) If vested property that is subject to a claim under subsection (1) has been leased or otherwise encumbered under this Act or another enactment,
- (a) the property when paid, transferred or delivered to the claimant remains subject to the lease or encumbrance, and
  - (b) the lease or encumbrance, if issued as an agreement under the *Mines and Minerals Act* in respect of a mineral, must be administered by the Minister responsible for that Act until the agreement expires or is terminated.
- (9) Subject to section 10(3)(b), a claim under this section may not be brought more than 10 years after the date on which the property or an amount as equivalent value for it was paid, transferred or delivered to the Minister.
- (10) If no claim in respect of unclaimed personal property or vested property has been made within the claim period specified in subsection (9), any right of a claimant in relation to the property, whether legal or equitable, is extinguished.
- (11) A claimant who objects to a decision of the Minister under subsection (3)(b) or to the amount stated to be owing in respect of the property under subsection (5)(b) or payable to the claimant in respect of the property under subsection (5)(c) may within 120



days serve on the Minister a written objection in the form required by the Minister setting out the basis on which the claimant objects to the decision or the amount.

**(12)** An objection served by a claimant under subsection (11) must be resolved in accordance with section 59.

**(13)** The Minister may apply to the Court of Queen's Bench in accordance with the regulations for advice or direction with respect to a claim or competing claims or any matter under this section.

**(14)** For the purposes of subsection (4)(a), information disclosed by the Minister may include relevant personal information, including names or identifiers, of the claimant or other claimants.

#### **Claims respecting transferred property**

**50(1)** Where a successful claim is made under section 48 or 49 for the return of vested property that has been transferred to another Minister in accordance with section 29, that Minister must return the property to the Minister responsible for this Act, or pay an amount as equivalent value for the property as prescribed in the regulations, together with an accounting in accordance with the regulations.

**(2)** Notwithstanding subsection (1), the Minister to whom the vested property has been transferred may, with the approval of the Minister responsible for this Act and on payment by the claimant of any amounts owing in respect of the property pursuant to section 39, pay, transfer or deliver the property directly to the claimant in accordance with section 48 or 49, as the case may be.

#### **Set-off**

**51(1)** The Minister may pay the whole or any part of an amount owing to a claimant under this Act into the General Revenue Fund to reduce or eliminate an indebtedness of the claimant to the Government of Alberta.

**(2)** A certificate signed by the Minister stating

- (a) the amount of the claimant's indebtedness to the Government,
- (b) the amount owing to the claimant applied towards reduction or elimination of the indebtedness,
- (c) the amount, if any, of the debt remaining after application of the amount referred to in clause (b), and

- (d) whether any interest is due on the indebtedness, and if so, the amount of the interest,

is prima facie proof of the facts stated in the certificate.

(3) Where the Minister makes a payment into the General Revenue Fund under subsection (1), the Minister must notify the claimant of the reduction or elimination of the debt.

(4) Subject to the regulations, for the purposes of determining the indebtedness of a claimant to the Government of Alberta, the Minister may collect information from and disclose information to another department of the Government of Alberta or a Provincial agency to which the *Financial Administration Act* applies, and that other department or Provincial agency may collect information from and disclose information to the Minister, including by means of data matching or data sharing.

#### **Rights unaffected by limitation periods**

**52(1)** Subject to sections 48(8) and 49(9) and the regulations, the expiration, before or after the coming into force of this Act, of a limitation period in relation to property or a claimant's rights or a holder's obligations in relation to that property does not

- (a) affect the claimant's rights to claim the property from the Minister,
- (b) preclude the property from being or becoming unclaimed property, or
- (c) affect any duty arising under this Act to
  - (i) provide any notice,
  - (ii) deliver any report,
  - (iii) maintain any records,
  - (iv) pay any amount, or
  - (v) pay, transfer or deliver the property to the Minister.

(2) Subject to subsection (1), nothing in this Act revives a right that has expired pursuant to the *Limitations Act*.

(3) The *Limitations Act* does not apply to the Crown with respect to any matter arising under this Act.

**Transfer of property**

**53** Subject to section 29, the Minister may in writing transfer the administration of property under this Act to another department or Provincial agency of the Government of Alberta with the agreement of the Minister responsible for the department or Provincial agency.

**Part 7  
Inspection and Enforcement****Inspection****Definitions**

**54** In this Part,

- (a) “authorized person” means a person authorized in writing by the Minister to conduct inspections in accordance with this Part;
- (b) “holder” means a holder as defined in section 1(1) and includes a person who the Minister has reason to believe is a holder or a personal representative of a deceased person;
- (c) “inspection” includes an audit and an examination.

**Inspection**

**55(1)** The Minister may, for the purpose of ensuring compliance by a holder with this Act and the regulations, authorize a person to conduct inspections of holders.

**(2)** An authorized person

- (a) may at all reasonable times enter any business premises of a holder and
  - (i) require the holder to produce for inspection any records relevant to the determination of whether unclaimed personal property or vested property is in the possession or control of the holder,
  - (ii) inspect and remove any of the records produced under subclause (i) that are relevant to the inspection for the purpose of making copies or extracts, and
  - (iii) inspect those premises and the operations carried on at those premises,
- (b) may at all reasonable times question a person who the authorized person has reasonable grounds to believe has

information relevant to the matters that the authorized person considers are or may be relevant to the inspection, subject to the person's right to have counsel or some other representative present during the questioning,

- (c) must carry identification in the prescribed form, and
- (d) must present the identification to the registered owner or the occupant of the premises.

**(3)** Without limiting subsection (2)(a), an authorized person may require the production of all business records of a holder that may be relevant to the inspection, including, without limitation, any of the following:

- (a) accounting books;
- (b) cash;
- (c) bank account records;
- (d) vouchers;
- (e) correspondence;
- (f) contracts;
- (g) financial statements.

**(4)** A holder and the holder's employees must co-operate with an authorized person by

- (a) permitting that authorized person, during business hours, to enter any business premises of the holder at which the authorized person has reasonable grounds to believe that records of the holder that are relevant to the inspection are located,
- (b) producing and permitting examination of those records, and
- (c) providing any assistance and information that the holder or employees are reasonably able to give respecting those records and respecting any property being held for an apparent owner.

**(5)** If an authorized person removes any records under subsection (2)(a)(ii), he or she must give a receipt for them to the person from whom they are taken.

(6) A person shall not obstruct an authorized person or withhold, destroy, conceal or refuse to produce any information, record or thing that is required by the authorized person or that is otherwise relevant to any of the matters in relation to which the inspection may be conducted.

(7) An authorized person may call on any experts that are reasonably necessary to assist the authorized person in conducting the inspection.

(8) If in an inspection it is determined that the holder was required but failed to comply with section 7 or 9, the Minister may assess the holder for the prescribed costs of the inspection and the holder must promptly pay those costs to the Minister.

(9) An authorized person may act under this section without a warrant.

#### **Warrants**

**56(1)** A justice may, in relation to an authorized person, issue a warrant authorizing the authorized person named in the warrant and, if appropriate, any expert or peace officer that the authorized person may call on for assistance under subsection (7) or (8), to do one or more of the following:

- (a) enter any business premises of the holder being inspected for the purpose of searching for, inspecting and removing any records and things relevant to the inspection;
- (b) enter any other property, including a room used as a dwelling, for the purpose of searching for, inspecting and removing any records and things relevant to the inspection.

**(2)** A warrant may be issued under subsection (1) if the justice is satisfied on information under oath that,

- (a) in the case of a warrant to be issued under subsection (1)(a), there are reasonable grounds to believe that a person who has possession of or control over records of the holder that are relevant to the inspection has not produced or will refuse to produce one or more of those records to an authorized person, or
- (b) in the case of a warrant to be issued under subsection (1)(b), there are reasonable grounds to believe that
  - (i) an offence under section 62 has been committed, and

- (ii) there is, on or in the premises, the record or the thing to be searched, as the case may be, a record or thing that will provide evidence of the commission of the offence.
- (3) A warrant issued under this section must specify the hours and days during which it may be executed.
- (4) Unless renewed, a warrant issued under this section expires not later than 30 days after the date on which it is issued.
- (5) An application for the issue or renewal of a warrant under this section may be made without notice.
- (6) A warrant issued under this section may be renewed for any reason for which it may be issued.
- (7) An authorized person may call on any experts that are reasonably necessary to assist the authorized person in conducting the inspection.
- (8) An authorized person doing anything under the authority of a warrant issued under this section may if necessary call on peace officers to assist in the execution of the warrant whether or not the warrant expressly authorizes a peace officer to assist the person.

#### **Copies of records**

- 57(1)** An authorized person who removes any records under section 55 or under the authority of a warrant issued under section 56 may make copies of them, take extracts from them or otherwise record them and must return them within a reasonable time.
- (2) Copies of or extracts from records removed under section 55 or 56 are admissible in evidence to the same extent, and have the same evidentiary value, as the original records if those copies or extracts are certified by the person who made them as being true copies of or extracts from the originals.

#### **Enforcement**

##### **Determination of obligation of holder**

- 58(1)** If the Minister determines that a reporting holder has not paid, transferred or delivered unclaimed personal property or vested property as required by this Act, the Minister may make a determination as to
  - (a) the unclaimed personal property or vested property that is payable, transferable or deliverable,

- (b) the value of that unclaimed personal property or vested property as of the date by which the holder was required to pay, transfer or deliver the unclaimed personal property or vested property, and
  - (c) the amount of interest that, under section 63, has accrued and will continue to accrue until
    - (i) the unclaimed personal property or vested property is paid, transferred or delivered, or
    - (ii) an amount is paid under section 7(4) or 9(2)(a) as equivalent value for that unclaimed personal property or vested property.
- (2)** A determination made under subsection (1) must be served on the holder by
- (a) personal delivery,
  - (b) registered mail, or
  - (c) any other means, or in any other manner that may be prescribed.
- (3)** Unless the holder on whom a determination is served under subsection (2) objects in accordance with subsection (4), the determination is final and the holder must, within 120 days after receipt of that determination,
- (a) pay, transfer or deliver the unclaimed personal property or vested property as required by this Act, and
  - (b) pay to the Minister any interest referred to in the determination.
- (4)** A holder on whom a determination is served under subsection (2) may object to that determination by serving on the Minister, within 120 days after receipt of the determination, a written objection in the form required by the Minister setting out the facts on the basis of which the holder objects to that determination.
- (5)** An objection served by a holder under subsection (4) must be resolved in accordance with section 59.

#### **Final determination of Minister**

**59(1)** If the Minister receives a notice of objection under section 7(2)(e), 9(2)(b), 17(2)(b), 48(11), 49(11) or 58(4), the Minister must reconsider the matter and must

- (a) if the objection is made by a holder,
  - (i) determine the unclaimed personal property or vested property, if any, that is payable, transferable or deliverable,
  - (ii) determine the value of the unclaimed personal property or vested property as of the date by which the holder was required to pay, transfer or deliver the unclaimed personal property or vested property,
  - (iii) determine the amount of interest, if any, that, under section 63, has accrued and will continue to accrue until
    - (A) the unclaimed personal property or vested property is paid, transferred or delivered, or
    - (B) an amount is paid under section 7(4) or 9(2)(a) as equivalent value for that unclaimed personal property or vested property,

and

- (iv) return to the holder any property that the holder has paid, transferred or delivered to the Minister that the Minister has determined should be returned,
- (b) if the objection is made by a claimant, reconsider the claim and allow or deny it in accordance with section 48(2) or 49(3), as the case may be, and
- (c) deliver to the holder or claimant the written results of the final determination of the matter.

**(2)** A holder must, within 60 days after receipt of a final determination under subsection (1), unless an appeal is brought under section 60,

- (a) pay, transfer or deliver the unclaimed personal property or vested property or pay the amount as equivalent value in accordance with the final determination, and
- (b) pay to the Minister any interest referred to in the final determination.

**Appeal from final determination of Minister**

**60(1)** A holder or claimant who disputes a final determination of the Minister made under section 59 or under subsection (2)(b) may,



within 30 days after receipt of the Minister's decision, appeal that decision to the Court of Queen's Bench.

**(2)** On an appeal under subsection (1), the Court of Queen's Bench may

- (a) allow the appeal or part of the appeal and vacate or vary the determination,
- (b) refer the determination back to the Minister for reconsideration and redetermination, or
- (c) dismiss the appeal.

#### **Court may enforce obligations**

**61** On application by the Minister, the Court may order a holder of unclaimed personal property or vested property or any other person or entity to provide records, pay, transfer or deliver property or pay any amount in accordance with this Act or the regulations, or otherwise to comply with this Act and the regulations.

### **Offences**

#### **Offences**

**62(1)** A person who

- (a) knowingly obstructs or hinders an authorized person conducting or attempting to conduct an inspection under this Act,
- (b) knowingly participates in, assents to or acquiesces in the making of an incorrect statement or omission in a report under this Act or the regulations,
- (c) knowingly participates in, assents to or acquiesces in the making of a claim under section 48 or 49 that is fraudulent in whole or in part,
- (d) without reasonable excuse, fails to create or maintain, in accordance with this Act or the regulations, a record that the person is required under this Act to create or maintain,
- (e) without reasonable excuse, fails to deliver a report, pay, transfer or deliver unclaimed personal property or vested property or pay an amount as equivalent value for property as required by this Act or the regulations,

- (f) without reasonable excuse, fails to comply with a demand of the Minister under section 11, 12, 19 or 20, or
- (g) contravenes or fails to comply with
  - (i) section 6, 7, 9(2), 10(2), 13, 14(3), 17(2), 18(2), 21, 22(3), 33(1), 35(1), 40(1) or (4), 55(4) or (6), 58(3) or 59(2), or
  - (ii) a regulation made under this Act where the regulation specifies that it is an offence to contravene or fail to comply with the regulation,

is guilty of an offence.

**(2)** No person is guilty of an offence under subsection (1) if the person exercised the care, diligence and skill that a reasonably prudent person would exercise in attempting to comply with this Act and the regulations.

**(3)** A person who is guilty of an offence under this Act or the regulations is liable on conviction to a fine of not more than \$2500 or, if the person is a corporation, to a fine of not more than \$25 000.

**(4)** If a corporation, company, society or cooperative commits an offence under subsection (1), any director or officer of the corporation, company, society or cooperative who knowingly authorizes, permits or acquiesces in the commission of the offence is a party to and guilty of the offence and is liable on conviction to a fine of not more than \$2500 whether or not the corporation, company, society or cooperative has been prosecuted or convicted.

**(5)** A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.

**(6)** A proceeding in respect of an offence under this Act may not be brought after the expiry of 4 years following the date on which the offence occurred.

### Interest

**63(1)** Unless exempted from doing so by the Minister, a holder who has not paid, transferred or delivered unclaimed personal property or vested property in the manner and time required under section 7, 9(2) or 17(2) or who has not paid an amount to the Minister as equivalent value for that unclaimed personal property or vested property in the manner and time required under section

7(4), 9(2)(a) or 17(2)(a), must pay to the Minister interest on the value of the unclaimed personal property or vested property.

(2) Interest payable under subsection (1) must be paid at a rate in accordance with section 4 of the *Judgment Interest Act* from the date the holder was required to pay, transfer or deliver the unclaimed personal property or vested property to the Minister up to and including the date on which the unclaimed personal property or vested property is paid, transferred or delivered or the amount as equivalent value is paid to the Minister.

## Part 8 Regulations

### Regulations

**64(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting classes of individuals or entities that may be exempted from the definition of “holder”;
- (b) prescribing things or classes of things that do not constitute intangible personal property or tangible personal property for the purposes of this Act;
- (c) respecting the establishment and application of a reasonable method of estimating the fair market value of unclaimed personal property and vested property;
- (d) respecting property held in trust that is or is not subject to this Act;
- (e) respecting the determination of the net value of personal property for the purposes of section 3(4)(b);
- (f) respecting personal property for the purposes of sections 4 and 15(g) and prescribing applicable periods of time for the purpose of presuming unclaimed personal property to be abandoned under section 4 or determining when property vests in the Crown under section 15(g);
- (g) respecting presuming other personal property rights referred to in section 4(2) to be abandoned under that section;
- (h) respecting the indication of an interest in personal property for the purposes of section 4(3) and (4);
- (i) prescribing the maximum amount of any fees or charges that a holder may charge an apparent owner under section 6;

- (j) respecting the information that must be provided by a holder in a report under section 7(2)(b) or (c);
- (k) respecting personal information that must or may be collected, used or disclosed by a holder;
- (l) respecting the circumstances in which a reporting holder is not obligated to make a payment under section 7(4);
- (m) respecting the form of any records or reports, the information to be contained in any records or reports and the manner of providing any records or reports that are to be provided to or by the Minister for the purpose of the administration of this Act;
- (n) respecting the records that must be created and maintained by a holder in relation to property for the purpose of the administration of this Act;
- (o) respecting the information to be included under section 5(2) or 9(3) in a notice to an apparent owner;
- (p) respecting the distribution of proceeds of sale of personal property under section 8(3)(b);
- (q) respecting the conditions that apply to the voluntary payment, transfer or delivery of personal property under section 10 or vested personal property under section 18 to the Minister by a holder;
- (r) respecting the manner in which, or the means by which, a demand for reports, information and records may be served on a holder under section 12(2) or 20(2);
- (s) prescribing personal property for the purposes of section 15(g);
- (t) respecting the withholdings and remittances a holder is required to make in relation to a payment, transfer or delivery of personal property or vested property to the Minister under section 14(3) or 22(3);
- (u) respecting an interest in land for the purposes of section 28(1)(l);
- (v) respecting circumstances in which the Minister may withdraw a caveat filed in respect of vested land;
- (w) respecting the circumstances in which the Minister may accept or disclaim an interest referred to in section 31;

- (x) respecting the transfer of administration of vested property to other Ministers and accounting for vested property that has been transferred;
- (y) respecting the sale or other disposition of vested land;
- (z) respecting the administration of unclaimed personal property or vested property under this Act;
- (aa) respecting dealing with or distributing amounts and negotiable instruments for the purposes of section 38;
- (bb) respecting any administration fee or expense that may be charged or deducted by the Minister or another Minister to whom administration of vested property is transferred;
- (cc) respecting other jurisdictions and foreign administrators in those jurisdictions for the purposes of dealing with unclaimed personal property;
- (dd) respecting the inclusion of information in, addition of information to, correction of information in and removal of information from the repository;
- (ee) respecting information regarding unclaimed personal property, abandoned property or missing owners under another enactment that may be included in the repository;
- (ff) respecting the inclusion of information in, addition of information to, correction of information in and removal of information from the Registry;
- (gg) respecting information regarding unclaimed personal property, abandoned property or missing owners under another enactment that may be included in the Registry;
- (hh) respecting the collection, use and disclosure of information regarding unclaimed personal property or vested property for the purposes of this Act, the information that may be made available to the public by means of the Registry and the restrictions that may be imposed for the purpose of protecting the privacy of owners, apparent owners and former owners;
- (ii) respecting the circumstances in which the Minister may consider a claim respecting unclaimed personal property or vested property under section 48(10);

- (jj) respecting persons who may make a claim under section 49 and the circumstances in which a claim may be made by those persons;
- (kk) respecting applications to the Court of Queen's Bench regarding claims and other matters under section 48 or 49;
- (ll) respecting accounting for and amounts that may be paid as equivalent value for transferred vested property under section 50;
- (mm) respecting the form of identification to be carried by an authorized person under this Act;
- (nn) respecting the inspection costs that may be assessed under section 55(8);
- (oo) prescribing offences pursuant to section 62(1)(g);
- (pp) respecting notices that may or must be sent to holders, encumbrancees, apparent owners, claimants or other persons;
- (qq) respecting notice to be provided by creditors and the manner in which their claims must be dealt with;
- (rr) respecting the collection, use and disclosure of information necessary for the administration of this Act;
- (ss) respecting service of documents;
- (tt) defining any word or expression used but not defined in this Act;
- (uu) respecting the collection and disclosure of information for the purposes of section 51, including the standards to be observed and the procedures to be followed in implementing a program for data matching or data sharing;
- (vv) for any other matter necessary or advisable to carry out this Act.

**(2)** The Lieutenant Governor in Council may make regulations respecting the transition of the administration of unclaimed personal property or vested property previously administered by the Crown that on the coming into force of this Act is to be administered under this Act.

**(3)** The Lieutenant Governor in Council may make regulations

- (a) respecting the maximum amount of compensation and expenses that may be provided for in an agreement under section 44;
  - (b) respecting the transfer of unclaimed personal property by the Public Trustee to the Minister under section 66(2).
- (4) Subject to section 24 and subsection (1)(m), the Minister may establish the forms to be used for the purposes of this Act.

## **Part 9 Transitional Provisions, Consequential Amendments, Repeal and Coming into Force**

### **Calculating time**

**65(1)** Subject to subsection (2), the periods of time set out in this Act and the regulations for calculating when unclaimed personal property is presumed to be abandoned or when property vests in the Crown begin on the day this Act comes into force.

(2) This Act applies to all property that has vested in the Crown in right of Alberta before the coming into force of this Act, and where vested property has been paid, transferred or delivered to the Minister before the coming into force of this Act, the claim period specified in section 48(8) or 49(9) is deemed to commence on the day this Act comes into force.

### **Unclaimed personal property in hands of Public Trustee**

**66(1)** This Act applies to unclaimed personal property delivered to the Public Trustee pursuant to section 270 of the *Companies Act* before the day on which this Act comes into force.

(2) On the coming into force of this Act, the Public Trustee must as soon as reasonably practicable pay, transfer or deliver to the Minister all unclaimed personal property referred to in subsection (1) that is still in the hands of the Public Trustee, together with copies of the relevant records.

(3) The claim period specified in section 48(8) or 49(9) in respect of the unclaimed personal property referred to in subsection (2) commences on the day on which the unclaimed personal property is received by the Minister.

### **Property held in trust under former Act**

**67(1)** The trust referred to in section 9 of the former Act is terminated and the property, including money, held in trust by the

Crown in accordance with the former Act is, on the coming into force of this Act, transferred as follows:

- (a) property and any accrued income derived from the estates of persons who died more than 6 years before the coming into force of this Act, to the Minister responsible for the *Post-secondary Learning Act* to be distributed, in proportions to be determined by that Minister, among the public post-secondary institutions established by or continued under the *Post-secondary Learning Act*;
- (b) property derived from the estates of persons who died less than 6 years before the coming into force of this Act, to the Minister, together with all records in the possession or control of the Crown related to the property and the estates from which it derives, in accordance with section 33.

(2) Notwithstanding anything in the former Act, the claim period specified in section 48(8) or 49(9) during which a claim may be made under this Act in respect of the property referred to in subsection (1)(b) commences on the day on which the property is received by the Minister.

**68 to 75** (*These sections amend other Acts; the amendments have been incorporated into those Acts.*)

#### **Repeal**

**76** The *Ultimate Heir Act*, RSA 2000 cU-1, is repealed.

#### **Coming into force**

**77** This Act comes into force on Proclamation.

(NOTE: *Proclaimed in force September 1, 2008.*)











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