



Before starting a claim, the director will confirm with prosecutors that the civil proceeding will not jeopardize or conflict with any ongoing criminal case.

If the director decides the case is appropriate for civil forfeiture, a claim is filed with the Nunavut Court of Justice. The claim must clearly identify the property that is the subject of the proceeding. The claim is then served on any known or suspected owners of the property. Any property owner can challenge the claim by filing a defence.

### ***Court Proceedings***

At the beginning of the proceeding, the court may impose conditions on the use and storage of the subject property to preserve its value pending a final hearing. This interim preservation order can be made by a judge or justice of the peace.

The court will then hear evidence from the director and any property owners and decide whether the subject property is proceeds or an instrument of unlawful activity and whether forfeiture is in the interests of justice. If the judge decides in favour of the director, the property will be forfeited to the Government of Nunavut. If not, the property will be returned to the original owners.

### ***Disposal of Forfeited Property and Use of Funds***

If the forfeited property is cash, it will be deposited into the forfeiture fund. For all other forfeited assets, the director will be able to sell it and deposit the money into the forfeiture fund. In appropriate cases, the director may also break the property down into parts for sale, donate the forfeited asset, or, in rare cases, the director may destroy the property if it would be in the public interest. For example, destruction may be in the public interest if selling or donating it could lead to conflict in the community.

The Act allows the forfeiture funds to be used to: Help pay the costs of the Forfeiture Office in prosecuting forfeiture cases; Directly compensate victims of the unlawful activities; Support victims of crime through the Victims Assistance Fund; and Support community wellness programs.

### ***Innocent Third Parties***

If the director commences a forfeiture case, the court is required to make orders protecting the property interests of people who were not involved in the unlawful activity and did not gain from it. In the case of multiple owners, the court must protect innocent property interests even if it finds that the property is proceeds or an instrument of

unlawful activity. In those cases only the portion of the property that is proceeds or an instrument of unlawful activity can be forfeited.

However, with respect to instruments of unlawful activity, if people know that their property is being used to commit an offence and do not take reasonable steps to prevent it, the judge may deny them a protection order if it is in the interests of justice to do so.