



Western Australia

Criminal and Found Property Disposal Act 2006

Compare between:

[16 Nov 2006, 00-a0-06] and [01 Jul 2007, 00-b0-07]

Western Australia

Criminal and Found Property Disposal Act 2006

An Act to provide for the disposal of —

- **property seized in the course of certain criminal investigations;
and**
- **property that has been found and that is in the possession of the
police or certain government agencies,
and for related matters.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Criminal and Found Property Disposal Act 2006*¹.

2. Commencement

This Act comes into operation on a day fixed by proclamation.

~~{3, 4. — Have not come into operation².}~~

~~{Parts 2 to 8 have not come into operation².}~~

Notes

[†] — This is a compilation of the *Criminal and Found Property Disposal Act 2006*. The following table contains information about that Act ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Criminal and Found Property Disposal Act 2006</i> s. 1 and 2	57 of 2006	16 Nov 2006	16 Nov 2006

^{1a} — On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Criminal and Found Property Disposal Act 2006</i> s. 3, 4 and Pt. 2-8 ²	57 of 2006	16 Nov 2006	To be proclaimed (see s. 2)

² — On the date as at which this compilation was prepared, the *Criminal and Found Property Disposal Act 2006* s. 3, 4 and Pt. 2-8 had not come into operation. They read as follows:

“

3. Interpretation

In this Act, unless the contrary intention appears —

“*appropriate court*” ² in relation to property, means —

- (a) the Magistrates Court if the value of the property is not more than that court’s jurisdictional limit, as that term is defined by the *Magistrates Court (Civil Proceedings) Act 2004* section 4;
- (b) the District Court if the value of the property is not more than that court’s jurisdictional limit, as that term is

defined by the *District Court of Western Australia Act 1969* section 6; or

(c) the Supreme Court in any other case;

“chief officer” of a prescribed agency, means —

(a) in the case of the Police Force and the department of the Public Service that principally assists in the administration of the *Police Act 1892* — the Commissioner of Police appointed under the *Police Act 1892*;

(b) in the case of a government agency —

(i) if the agency is a body that has a chief executive officer — the chief executive officer;

(ii) if the agency is a body that does not have a chief executive officer — an officer of the body prescribed to be the chief officer;

(iii) if the agency is the holder of an office, post or position — the individual who holds the office, post or position;

“claim” to property, means a claim of which notice has been given in accordance with section 24;

“criminal investigation” means an investigation into whether an offence has been committed or into who committed an offence;

“forfeited property” means property that under a written law is, or is ordered to be, forfeited to the State;

“found property” means any property, other than seized property, that has been found, irrespective of whether it had been lost or abandoned before it was found;

“government agency” means any body (whether corporate or unincorporate) or the holder of any office, post or position, being a body, office, post or position established under a written law for a public purpose;

“held property” means any property, other than seized property and forfeited property, that is in the possession of the chief officer of a prescribed agency, by virtue of section 5;

“holding expenses” for property in the possession of a chief officer, means the expenses incurred by the officer under section 6;

“interest” in property, includes an equitable interest in it;

“net proceeds” of a sale of property, means the gross proceeds of the sale minus —

- (a) the holding expenses for the property before the sale; and
- (b) the expenses of and incidental to the sale and any attempted sale of the property;

“partly prohibited property” means property the possession of which by a member of the public is prohibited under a written law except in circumstances prescribed by the law;

“person entitled” to property, means —

- (a) the owner of the property or a person authorised by the owner to possess the property; or
- (b) a person who is otherwise legally entitled to possession of the property;

“prescribed” means prescribed by regulations made under this Act;

“prescribed agency” means —

- (a) the Police Force;
- (b) the department of the Public Service that principally assists in the administration of the *Police Act 1892*; and
- (c) any other government agency that is prescribed, or that another Act says is a prescribed agency for the purposes of this Act;

“seized property” means property that has been seized in the course of a criminal investigation other than —

- (a) any sample taken or seized under the *Criminal Investigation Act 2006* or any other written law; and
- (b) any thing used in obtaining an identifying particular of a person under the *Criminal Investigation (Identifying People) Act 2002*;

“**State**” means the State of Western Australia or the Crown in right of Western Australia;

“**unregulated property**” means property that is neither wholly prohibited property nor partly prohibited property;

“**wholly prohibited property**” means property the possession of which by a member of the public is totally prohibited under a written law.

4. This Act’s relationship with other Acts

- (1) Except as provided by section 15(1), this Act does not affect the operation of —
 - (a) any other written law that provides for the disposal of forfeited property or property that has been seized or abandoned;
 - (b) the *Criminal Property Confiscation Act 2000*;
 - (c) the *Pawnbrokers and Second-hand Dealers Act 1994* section 86; or
 - (d) the *Road Traffic Act 1974* Part V Division 4.
- (2) If a provision in this Act is inconsistent with a provision in the *Criminal Property Confiscation Act 2000*, the provision in that Act prevails.

Part 2 — General

5. Chief officer deemed to be in possession of certain property

For the purposes of this Act, the chief officer of a prescribed agency is to be taken to be in possession of any property that is in the possession of the agency, or an employee or officer of the agency, and that is —

- (a) found property that has been found by the agency or an employee or officer of it or by some other person;
- (b) seized property that has been seized in the course of a criminal investigation by the agency; or
- (c) seized property that has been seized in the course of a criminal investigation by the agency and that becomes forfeited property.

6. Chief officer's functions in relation to property

- (1) The chief officer of a prescribed agency —
 - (a) has the control and management of property in the officer's possession by virtue of section 5; and
 - (b) must take reasonable steps to ensure the property is kept safely, and is appropriately stored, managed and maintained, until the property is disposed of under this Act.
- (2) A chief officer may enter into a contract with a person under which the person stores, manages or maintains any property in the chief officer's possession by virtue of section 5.

Part 3 — Seized property

Division 1 — General

7. Interpretation

In this Part —

“*deal with*” seized property, includes to lease, sell, transfer, mortgage, give away, move, use and destroy the property.

8. Application of this Part

This Part applies to and in respect of any seized property that is in the possession of the chief officer of a prescribed agency by virtue of section 5.

9. Authority to retain seized property

- (1) A chief officer’s authority to retain any property that is seized property is subject to any order made under section 13 in relation to the property.
- (2) A chief officer’s authority to retain seized property as seized property ceases if —
 - (a) the property is not property that may be forfeited to the State;
 - (b) the property is property that may be forfeited to the State but a court has refused to order its forfeiture;
 - (c) the property is not the subject of proceedings under the *Criminal Property Confiscation Act 2000*;
 - (d) seizure and retention of the property is not authorised by another written law; and
 - (e) it is no longer necessary for the property to be retained for one or more of these purposes —
 - (i) to do a forensic examination (as that term is defined by the *Criminal Investigation Act 2006*) on it;

- (ii) to preserve its evidentiary value;
 - (iii) to prevent it from being used in the commission of an offence.
- (3) Subject to any order made under section 13, when a chief officer's authority to retain seized property ceases under subsection (2) the property is to be taken for the purposes of this Act —
 - (a) to have ceased to be seized property; and
 - (b) to have become held property,and the chief officer must dispose of it under Part 5.
- (4) Unless the chief officer releases it to a person entitled to it, the chief officer must not dispose of seized property that has become held property under subsection (3) until at least 2 months have elapsed since it became held property.

10. Unauthorised dealing with seized property prohibited

- (1) A person who deals with property that the person knows is seized property commits an offence unless the dealing is authorised by —
 - (a) an order made under section 13; or
 - (b) a written authorisation given under subsection (3).Penalty: a fine of \$12 000 and imprisonment for 12 months.
- (2) Subsection (1) does not apply to the chief officer of a prescribed agency who is in possession of the property, or any employee or officer of the agency, acting lawfully in the course of duty.
- (3) The chief officer of a prescribed agency who is in possession of any seized property may give a person a written authorisation to deal with the property.
- (4) Despite any other written law, if a lease, sale, transfer, mortgage or gift of, or any other legal transaction involving, seized

property contravenes this section, it has no effect, whether in law, equity or otherwise.

Division 2 — Court orders as to seized property

11. Application for release of or permission to deal with seized property

- (1) A person may apply to the appropriate court for —
 - (a) an order that the chief officer of a prescribed agency release seized property that is in the officer's possession to the applicant; or
 - (b) an order permitting the applicant to deal with seized property that is in the possession of the chief officer of a prescribed agency.
- (2) The application must be made in accordance with rules of court and must be served on the chief officer.

12. Dealing with an application made under s. 11

- (1) On an application made under section 11 by a person (the *“aggrieved person”*), the chief officer and the aggrieved person are entitled to be heard.
- (2) On such an application the chief officer may apply to the court for an order that information given to the court that is relevant to the seizure of the property not be disclosed to the aggrieved person.
- (3) An application under subsection (2) may be made without notice to the aggrieved person and may be heard and decided in private and in the absence of the aggrieved person.
- (4) On an application made under subsection (2), the court must not make an order restricting the disclosure of information unless satisfied the disclosure might prejudice the safety of any person or the investigation of an offence to which the seized property relates.

13. Court's powers on an application made under s. 11

- (1) On an application made under section 11, the appropriate court may make any order it thinks fit including —
 - (a) an order that requires the application to be served on —
 - (i) a person who has made a claim to the seized property to the chief officer who is in possession of the property;
 - (ii) a person with an interest in the seized property;
 - (b) if there are 2 or more of the persons referred to in paragraph (a), and even if one or more of them has not made a claim — any order that might be made under section 27;
 - (c) if the court permits a person to deal with seized property — an order imposing conditions on the person doing so;
 - (d) an order as to the costs of the application.
- (2) The court must not order that seized property be released to a person unless satisfied that —
 - (a) the person is a person entitled to the property;
 - (b) it would be lawful for the person to possess the property; and
 - (c) under section 9 the chief officer's authority to retain the property as seized property has ceased.
- (3) A condition imposed under subsection (1)(c) may require a person to give security for payment to the State of the value of the seized property.
- (4) Any security given under such a condition is to be dealt with according to the court's order if the seized property —
 - (a) is forfeited to the State; or
 - (b) otherwise ceases to be seized property.

- (5) A person who contravenes a condition imposed under subsection (1)(c) commits an offence.
Penalty: a fine of \$12 000 and imprisonment for 12 months.

Part 4 — Found property

14. Receipt of property

A person who gives possession of any found property to a prescribed agency must be given a receipt for the property from the chief officer of the agency if and as soon as is reasonably practicable.

15. Found property that is wholly or partly prohibited property

- (1) This section applies despite section 4(1)(a) and despite any other written law.
- (2) If —
 - (a) a person gives possession of any found property to a government agency; or
 - (b) any found property is found by a government agency or an employee or officer of a government agency,and the property is wholly prohibited property or partly prohibited property, the agency or its employee or officer may seize the property.
- (3) Unless the person who seizes property under subsection (2) is entitled under another written law to seize the property, the person must not dispose of it under Part 5 but must immediately give possession of the property to —
 - (a) a person who is authorised under another written law to investigate offences in relation to possession of the property; or
 - (b) a police officer.
- (4) A person given possession of property under subsection (3)(a) may seize it even if not authorised to do so under another written law.

- (5) If —
- (a) a person gives possession of any found property to a police officer, whether or not under subsection (3); or
 - (b) any found property is found by a police officer,
- and the property is wholly prohibited property or partly prohibited property, the officer may seize the property even if not authorised to do so under another written law.
- (6) If a person who seizes property under subsection (4) or (5) is a prescribed agency or an employee or officer of a prescribed agency —
- (a) the property is, for the purposes of Part 3, to be taken to be seized property in the possession of the chief officer of the agency; and
 - (b) Part 3 applies accordingly.

16. Chief officer's functions in relation to found property

- (1) This section applies to and in respect of any found property that is in the possession of the chief officer of a prescribed agency by virtue of section 5, other than property to which section 15 applies.
- (2) Unless the seizure and retention of the found property is authorised by another written law, the property is to be taken to be held property and the chief officer must dispose of it under Part 5.
- (3) Unless the chief officer releases it to a person entitled to it, the chief officer must not dispose of found property that has become held property under subsection (2) until at least 2 months have elapsed since it became held property.

Part 5 — Disposing of held property

17. Perishable or dangerous property, disposal of

If held property in the possession of the chief officer of a prescribed agency is not wholly prohibited property and —

- (a) is likely to perish before it can be disposed of under section 18 or 19; or
- (b) would be dangerous to keep until it can be disposed of under section 18 or 19,

the chief officer may —

- (c) sell the property under section 33 and deal with the net proceeds under section 18 as if it were held property that is unregulated property;
 - (d) if it is not practicable to sell the property —
 - (i) release it to a charitable or educational institution;
 - (ii) destroy it;
- or
- (e) if the property would be dangerous to keep until it can be disposed of under section 18 or 19 and is of use to the agency — retain it.

18. Unregulated property, disposal of

- (1) If the chief officer of a prescribed agency is in possession of held property that is unregulated property, the chief officer must —

- (a) if the officer knows the identity and whereabouts of a person entitled to the property — release it to the person;
- (b) if the officer knows the identity of a person entitled to the property but not the whereabouts —
 - (i) if the property is money — deal with it under the *Unclaimed Money Act 1990* as prescribed retained money;

- (ii) if the property is not money and its value is equal to or greater than an amount prescribed — sell it under section 33 and deal with the net proceeds under the *Unclaimed Money Act 1990* as prescribed retained money;
 - (iii) otherwise — deal with it under paragraph (d)(ii), (iii), (iv) or (v), as the chief officer thinks fit;
 - (c) if the officer does not know both the identity and whereabouts of a person entitled to the property and the property is money — credit it to the Consolidated Fund;
 - (d) if the officer does not know both the identity and whereabouts of a person entitled to the property and the property is not money — do whichever of the following the chief officer thinks fit —
 - (i) sell it under section 33 and credit the net proceeds to the Consolidated Fund;
 - (ii) give the property to a charitable or educational institution;
 - (iii) if the property is of use to the agency — retain it;
 - (iv) if the property is of use to another government agency — give it to that agency; or
 - (v) destroy it.
- (2) If under subsection (1), the chief officer of a prescribed agency must release property to a person, the officer may give the person a written notice that advises the person —
- (a) that the person may collect the property from the agency;
 - (b) where and when the property may be collected; and
 - (c) that if the property is not collected within one month, or such longer period as the notice specifies, after the date on which the notice is sent to the person, the person will cease to be entitled to the property.

- (3) If a person is given a notice under subsection (2) and does not collect the property within the period specified in the notice, the chief officer may take whichever of the courses of action in subsection (1)(d) the chief officer thinks fit.

19. Partly prohibited property, disposal of

- (1) If the chief officer of a prescribed agency is in possession of held property that is partly prohibited property, the chief officer must —
- (a) if the officer knows the identity and whereabouts of a person entitled to the property and it would be lawful for the person to possess it — release it to the person;
 - (b) if the officer knows the identity and whereabouts of a person entitled to the property but it would not be lawful for the person to possess it —
 - (i) if the person so requests and pays the officer's costs of doing so, and it is practicable to do so — modify or treat the property so as to make possession of it by the person lawful and release it to the person; or
 - (ii) if the person so requests — release it to a person who can lawfully possess it;
 - (c) if the officer knows the identity of a person entitled to the property but not the whereabouts —
 - (i) if the value of the property is equal to or greater than an amount prescribed — sell it under section 33 and deal with the net proceeds under the *Unclaimed Money Act 1990* as prescribed retained money; or
 - (ii) otherwise — deal with it under paragraph (d)(ii), (iii) or (iv), as the chief officer thinks fit;

- (d) if the officer does not know both the identity and whereabouts of a person entitled to the property, or if the property is not dealt with under paragraph (b) — do whichever of the following the chief officer thinks fit —
 - (i) sell it under section 33 and credit the net proceeds to the Consolidated Fund;
 - (ii) if the property is of use to the agency for training or educational purposes — retain it for those purposes;
 - (iii) if the property is of use to another government agency for training or educational purposes — give it to that agency for those purposes; or
 - (iv) destroy it.
- (2) If the chief officer of a prescribed agency is in possession of held property and knows the identity and whereabouts of a person entitled to the property, the chief officer must not act under subsection (1)(d) unless —
 - (a) the chief officer has given the person a written notice about the effect of subsection (1)(b) and this subsection; and
 - (b) no request that the chief officer is able to comply with has been made under subsection (1)(b) within one month, or such longer period as the chief officer may permit, after the date on which the notice is sent to the person.
- (3) If under subsection (1), the chief officer of a prescribed agency must release property to a person, the officer may give the person a written notice that advises the person —
 - (a) that the person may collect the property from the agency;
 - (b) where and when the property may be collected; and

- (c) that if the property is not collected within one month, or such longer period as the notice specifies, after the date on which the notice is sent to the person, the person will cease to be entitled to the property.
- (4) If a person is given a notice under subsection (3) and does not collect the property within the period specified in the notice, the chief officer may take whichever of the courses of action in subsection (1)(d) the chief officer thinks fit.

20. Wholly prohibited property, disposal of

If the chief officer of a prescribed agency is in possession of held property that is wholly prohibited property, the chief officer must deal with the property under section 29(2) as if it were forfeited property.

Part 6 — Determining who is entitled to property

21. When the identity or whereabouts of a person entitled are known

- (1) For the purposes of this Act, the chief officer of a prescribed agency who is in possession of any property by virtue of section 5 knows the identity of a person entitled to the property if —
 - (a) the officer —
 - (i) is satisfied on the balance of probabilities that a person whose identity is known to the officer is a person entitled to the property; and
 - (ii) does not know and has no notice of the identity or whereabouts of any other person entitled to the property;
 - (b) under section 25(1)(a) the officer has admitted a claim to the property; or
 - (c) under this Part a court has ordered that a claim by the person to the property be admitted.
- (2) For the purposes of this Act, the chief officer of a prescribed agency who is in possession of any property by virtue of section 5 knows the whereabouts of a person entitled to the property if the officer has a postal address for a person entitled to the property.
- (3) If the chief officer of a prescribed agency who is in possession of any property by virtue of section 5 knows the identity and whereabouts of a person entitled to the property, the chief officer must take reasonable measures to ensure the person is aware that the chief officer is in possession of the property.

22. Measures to ascertain who is entitled

- (1) If a chief officer does not know the identity of a person entitled to any held property in the possession of the officer, the officer must take reasonable measures to ascertain the identity before disposing of the property under this Act.
- (2) If a chief officer does not know the whereabouts of a person entitled to any held property in the possession of the officer, the officer must take reasonable measures to ascertain the whereabouts before disposing of the property under this Act.

23. Finder of property may be taken to be owner in some cases

For the purposes of this Act, the finder of property may be taken to be the owner of the property if —

- (a) at least 2 months have elapsed since the date on which the chief officer in possession of the property was given a claim to it by the finder;
- (b) the only claim the chief officer has received to the property is from the finder;
- (c) the chief officer does not know and has no notice of the identity or whereabouts of a person entitled to the property; and
- (d) the chief officer has complied with section 22.

24. Claim to property, making of

- (1) A person who claims to be a person entitled to any property in the possession of the chief officer of a prescribed agency by virtue of section 5, or an interest in any such property, may give the officer notice of the claim.
- (2) A person who claims to be the finder of any property in the possession of the chief officer of a prescribed agency under section 5, may give the officer notice of the claim.

- (3) A notice of a claim cannot be given under subsection (2) by —
 - (a) a member of the Police Force; or
 - (b) a government agency, or an employee or officer of a government agency, if he or she found the property in the course of duty.
- (4) A notice of a claim must —
 - (a) be in writing;
 - (b) describe the property concerned;
 - (c) give an address for service for the claimant; and
 - (d) be accompanied by a statutory declaration that sets out the grounds for the claim or the circumstances in which the property was found, as the case requires.

25. Dealing with claims to property

- (1) The chief officer of a prescribed agency who receives a claim to property in the officer's possession —
 - (a) may admit the claim if he or she —
 - (i) is satisfied on the balance of probabilities that that the claimant is a person entitled to the property; and
 - (ii) does not know and has no notice of the identity or whereabouts of any other person entitled to the property;
 - (b) otherwise, may reject the claim; and
 - (c) must give the claimant written notice of the decision as soon as practicable after it is made.
- (2) If the chief officer of a prescribed agency receives 2 or more claims to the same property, the officer must give each claimant notice of each other claim.

- (3) If the chief officer of a prescribed agency rejects a claim, the officer must not release the property or dispose of it under this Act until —
 - (a) the time for making an application under section 26 has elapsed without such an application being made; or
 - (b) any such application has been finally determined.

26. Disputed claims etc., application to court may be made

- (1) If the chief officer of a prescribed agency rejects a claim, the claimant may apply to the appropriate court for an order under section 27.
- (2) An application under subsection (1) must be made within 21 days after the date on which the chief officer sends the claimant written notice under section 25(1)(c).
- (3) If —
 - (a) there are competing claims to property; or
 - (b) a chief officer wants directions in relation to a claim,the officer may apply to the appropriate court for an order under section 27.
- (4) If there are 2 or more competing claims to the same property a single application may be made under subsection (3) in respect of all of the claims.
- (5) Subject to this section, an application under this section must be made in accordance with rules of court.

27. Courts' powers on disputed claims

- (1) On an application made under section 26 to a court, the court may —
 - (a) order that a claim be admitted;

- (b) order that a claim be rejected and that the claimant, and any person claiming under the claimant, be barred from claiming the property concerned;
 - (c) give any directions it thinks fit in relation to a claim;
 - (d) make any other orders as may be just in relation a claim;
 - (e) make orders as to the payment of the holding expenses for the property;
 - (f) make orders as to the payment of the costs of the application.
- (2) On an application made under section 26 by a chief officer in relation to 2 or more competing claims, the officer is entitled to an order that the officer's costs of making the application be paid by some or all of the claimants.

Part 7 — Disposing of forfeited property

28. Disposal to be delayed until outcome of any appeal

A person must not exercise the powers in this Part in relation to forfeited property before the expiration of the time allowed for appealing against the order (if any) that ordered the property to be forfeited to the State, or, if an appeal is lodged within that time, before the appeal is concluded.

29. How forfeited property must be disposed of

- (1) If forfeited property in the possession of the chief officer of a prescribed agency is money, the officer must credit it to the Consolidated Fund.
- (2) If forfeited property in the possession of the chief officer of a prescribed agency is wholly prohibited property or partly prohibited property, the officer must do whichever of the following the officer thinks fit —
 - (a) if it is practicable to do so, modify or treat the property so as to make possession of it lawful and —
 - (i) give it to a charitable or educational institution or to a government agency; or
 - (ii) sell it under section 33, and credit the net proceeds to the Consolidated Fund;
 - (b) if the property is of use to the agency for training or educational purposes — retain it for those purposes;
 - (c) if the property is of use to another government agency for training or educational purposes — give it to that agency for those purposes; or
 - (d) destroy it.
- (3) If forfeited property in the possession of the chief officer of a prescribed agency is neither money nor wholly prohibited property nor partly prohibited property, the officer must do whichever of the following the officer thinks fit —

- (a) retain it for use by the agency;
- (b) give it to a charitable or educational institution or to a government agency;
- (c) sell it under section 33 and credit the net proceeds to the Consolidated Fund; or
- (d) destroy it.

Part 8 — Miscellaneous

30. Court's powers as to property in possession of prescribed agency

- (1) The chief officer of a prescribed agency who is in possession of any property by virtue of section 5 may at any time apply to the appropriate court for an order under this section in relation to the property.
- (2) An application made under subsection (1) may be in respect of more than one item of property or in respect of items that have no connection with one another or in respect of items that have come into the possession of the chief officer at different times.
- (3) The application must be made in accordance with rules of court.
- (4) On an application made under this section, the court may order the applicant to do anything the court considers is necessary or convenient for the purposes of deciding whether to make an order under subsection (5) or what order to make under subsection (5), including but not limited to ordering the applicant to do any or all of the following —
 - (a) to serve a copy of the application on a person specified by the court, being a person who has or may have an interest in the property;
 - (b) to give public notice of the application or any aspect of it;
 - (c) to make inquiries in respect of the property, as specified by the court;
 - (d) to provide the court with information about the property, as specified by the court;
 - (e) to make a separate application under this section in respect of one or more items of property specified by the court.

- (5) On an application made under this section, the court may make any order that is just in the circumstances including but not limited to —
- (a) an order as to any matter related to the continued possession and preservation of the property by the applicant including but not limited to an order as to where and how the property is to be stored;
 - (b) an order that the property be forfeited to the State;
 - (c) an order as to the disposal of the property including but not limited to an order as to the sale, holding expenses or net proceeds of a sale of the property;
 - (d) an order that the property be destroyed;
 - (e) an order that the property be treated or altered or damaged in a way specified by the court.
- (6) On an application made under this section in respect of more than one item of property, the court may make different orders in respect of different items.

31. Delegation by chief officers

- (1) A chief officer may delegate a function conferred on the officer by this Act, other than this power of delegation.
- (2) A delegation must be in writing.

32. Valuation of property

- (1) If the chief officer of a prescribed agency has to determine the value of property for the purposes of this Act, the officer must take reasonable measures to determine the value.
- (2) In order to decide whether it is an appropriate court in relation to any property, a court may determine the property's value.
- (3) A court's determination under subsection (2) is not invalid only because the value of the property exceeds the maximum permitted to be dealt with by the court under this Act.

33. Sale of property

- (1) Any sale of property under this Act must be by public auction or public tender unless —
 - (a) the value of the property is below a value prescribed; or
 - (b) the property is of a kind prescribed, whether or not also below a value prescribed,in which case the property may be sold by private agreement.
- (2) Subject to subsection (1), a chief officer who may sell any property under this Act may enter into a contract for the sale of the property on terms that the officer thinks fit.
- (3) If under this Act any property is sold, the chief officer who has possession of the property may sign any document that is needed to transfer the property to the purchaser.
- (4) A document signed under subsection (3) has effect as if it were signed by the owner of the property.

34. Title to property disposed of under this Act

- (1) If under this Act —
 - (a) a chief officer, in good faith, releases any property to a person who found the property; or
 - (b) any property is sold in good faith to a person,and the person takes the property in good faith, the person receives good title to the property against every other person including its true owner.
- (2) If under this Act —
 - (a) any property is released in good faith to a person; or
 - (b) any property is sold in good faith to a person,no person may recover from the State any compensation in respect of any estate or interest that the person had in the property before it was released or sold.

35. Officials protected from personal liability

- (1) In this section —
| **“official”** means the chief officer of a prescribed agency or a delegate of such an officer.
- (2) In this section, a reference to the doing of anything includes a reference to an omission to do anything.
- (3) An action in tort does not lie against an official or the State for anything that the official has done, in good faith, in the performance or purported performance of a function under this Act.
- (4) The protection given by subsection (3) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.

36. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

22

|

Notes

¹ [This is a compilation of the *Criminal and Found Property Disposal Act 2006*. The following table contains information about that Act.](#)

Compilation table

<u>Short title</u>	<u>Number and year</u>	<u>Assent</u>	<u>Commencement</u>
Criminal and Found Property Disposal Act 2006	57 of 2006	16 Nov 2006	s. 1 and 2: 16 Nov 2006; Act other than s. 1 and 2: 1 Jul 2007 (see s. 2 and <i>Gazette</i> 22 Jun 2007 p. 2838)
