

2003 Fredericton, NB

UNIFORM LEGISLATION RESPECTING UNCLAIMED INTANGIBLE PROPERTY

Report of the Working Group

[1] The accompanying Uniform Unclaimed Intangible Property Act addresses three issues identified as outstanding: the definition of property; the manner in which property becomes unclaimed under the Act; and the ability of the administrator to deal effectively with securities. In so doing, the Act draws upon the US Uniform Unclaimed Property Act of 1995. Its provisions respecting these issues are the most developed and comprehensive of the alternatives, and with respect to which there has been the greatest commercial experience. The US uniform act has the merit of being the predominant legislative scheme in North America, and is accordingly the legislation with which Canadian holders have had the most experience.

[2] With respect to the first issue, the definition of property in Section 1 encompasses both the underlying property interest and an inclusive list of various types of instrument which may evidence it.

[3] In addressing the issue of when property becomes unclaimed, Section 2 sets out the occurrence by which different types of property become payable and distributable by a holder to an apparent owner, as well as the period of time which must elapse thereafter until the property becomes unclaimed under the Act.

[4] With respect to the third issue of providing the administrator with the ability to deal effectively with investment securities, Section 13 has been confirmed and refined.

[5] The project has had the benefit of the kind advice and assistance of a number of people, including Alexander Davidson and others from the Canada Customs and Revenue Agency, Rosemary Cochrane of the Government of Ontario, Donald Sutherland of the British Columbia Ministry of Attorney General, the Financial and Corporate Sector Policy Branch of the British Columbia Ministry of Finance, the Office of the Public Guardian and Trustee of British Columbia, and Paula Smith of ACS Unclaimed Property Clearing House Inc. of Boston, Massachusetts.

[6] In addition, the Act incorporates several recommendations kindly made by Luis Curras of the Office of the Public Curator of Quebec with respect to the information to be provided by a holder to an administrator, and with respect to the content and access to the databases maintained by the administrator.

[7] The Act was also sent for consultation purposes to a large number of representative organizations of industry and consumers and to the provincial and territorial Public Trustees and Comptrollers-General.

[8] The memorandum which accompanied the consultation act set out the nature and purpose of the Uniform Unclaimed Intangible Property Act: to provide, for the consideration of those provinces and territories which may wish to enact such legislation, a clear, comprehensive, harmonized statutory model in which are addressed the interjurisdictional as well as the other issues which arise in such a legislative scheme.