

National Defence Act

CHAPTER N-5

2. (1) In this Act

"non-public property" means

"non-public property"
«biens non publics»

- (a) all money and property, other than issues of materiel, received for or administered by or through messes, institutes or canteens of the Canadian Forces,
- (b) all money and property contributed to or by officers, non-commissioned members, units or other elements of the Canadian Forces for the collective benefit and welfare of those officers, non-commissioned members, units or other elements,
- (c) by-products and refuse and the proceeds of the sale thereof to the extent prescribed under subsection 39(2), and
- (d) all money and property derived from, purchased out of the proceeds of the sale of, or received in exchange for, money and property described in paragraphs (a) to (c);

Non-public Property

Non-public property of units

38. (1) The non-public property of a unit or other element of the Canadian Forces shall vest in the officer from time to time in command of that unit or other element, and shall be used for the benefit of officers and non-commissioned members or for any other purpose approved by the Chief of the Defence Staff in the manner and to the extent authorized by the Chief of the Defence Staff.

Non-public property of disbanded units

(2) The non-public property of every disbanded unit or other disbanded element of the Canadian Forces vested in the officer in command of that unit or other element shall pass to and vest in the Chief of the Defence Staff, and may be disposed of at the discretion and direction of the Chief of the Defence Staff for the benefit of all or any officers and non-commissioned members or former officers and non-commissioned members, or their dependants.

Non-public property of units or elements in altered circumstances

(3) Where, by reason of a substantial reduction in the number of officers and non-commissioned members serving in a unit or other element of the Canadian Forces or by reason of a change in the location or other conditions of service of a unit or other element, the Chief of the Defence Staff considers it desirable to do so, he may direct that the non-public property or any part thereof that is vested in the officer in command of that unit or other element shall pass to and be vested in the Chief of the Defence Staff on the terms set out in subsection (2).

R.S., 1985, c. N-5, s. 38; R.S., 1985, c. 31 (1st Supp.), s. 60.

Other non-public property

39. (1) Non-public property acquired by contribution but not contributed to any specific unit or other element of the Canadian Forces shall vest in the Chief of the Defence Staff and, subject to any specific directions by the contributor as to its disposal, may be disposed of at the discretion and direction of the Chief of the Defence Staff for the benefit of all or any officers and non-commissioned members or former officers and non-commissioned members, or their dependants.

By-products and refuse

(2) By-products and refuse derived from rations and other consumable stores issued to the Canadian Forces for use in service kitchens, and the proceeds of the sale thereof, shall, to the extent that the Governor in Council may prescribe, be non-public property.

Alienation of non-public property

(3) Except as authorized by the Chief of the Defence Staff, no gift, sale or other alienation or attempted alienation of non-public property is effectual to pass the property therein.

R.S., 1985, c. N-5, s. 39; R.S., 1985, c. 31 (1st Supp.), s. 60.

Liability for loss or damage

40. The conditions under which and the extent to which an officer or non-commissioned member is liable to make restitution or reimbursement in respect of loss of or damage to non-public property resulting from the negligence or misconduct of that officer or non-commissioned member shall be as prescribed by the Minister.

R.S., 1985, c. N-5, s. 40; R.S., 1985, c. 31 (1st Supp.), s. 60.

Ministerial directions

41. (1) The Chief of the Defence Staff shall exercise his authority under subsections 38(1) and (2) and 39(1) subject to any directions that may be given to him by the Minister for carrying the purposes and provisions of this section and sections 38 to 40 into effect.

Audit

(2) Non-public property accounts shall be audited as the Minister may from time to time direct.

Special provision

(3) The *Financial Administration Act* does not apply to non-public property.

R.S., c. N-4, s. 38.