

Return of
vessel or
goods if no
forfeiture
ordered.

(11) Where any vessel, vehicle, article, goods or fish have been seized pursuant to subsection (1) and proceedings in respect of the offence have been instituted, but the vessel, vehicle, article, goods or fish or any proceeds realized from the sale thereof under subsection (3) are not at the final conclusion of the proceedings ordered to be forfeited under subsection (5) and have not been forfeited under subsection (6), they shall be returned forthwith, or the proceeds shall be paid forthwith, to the person from whom the vessel, vehicle, article, goods or fish were taken, unless there has been a conviction and a fine imposed, in which case the vessel, vehicle, article, goods or fish may be detained until the fine is paid, or the vessel, vehicle, article, goods or fish may be sold under execution in satisfaction of the fine, or the proceeds realized from a sale of any article, goods or fish pursuant to subsection (3) may be applied in payment of the fine. 5

Release of
seized fish.

(12) Notwithstanding anything contained in this section, a fishery officer may, at the time of seizure, return to the water any fish seized pursuant to subsection (1) that the fishery officer believes to be alive. 20

"Judge."

64A. (1) In this section,

(a) "judge" means

- (i) in the Province of Quebec, a judge of the Superior Court for the district in which the vessel, vehicle, article, goods or fish in respect of which an application for an order under this section is made, were seized, 25
- (ii) in the Province of Newfoundland, a judge of the Supreme Court of Newfoundland, 30
- (iii) in the Yukon and Northwest Territories, a judge of the Territorial Court,
- (iv) in any province not referred to in subparagraphs (i) to (iii), a judge of the county or district court for the county or district in which any such vessel, vehicle, article, goods or fish were seized; and 35

"Court of
appeal."

(b) "court of appeal" means, in the province in which an order under this section is made, the court of appeal for that province as defined in paragraph (9) of section 2 of the *Criminal Code*. 40

Application
by person
claiming
interest.

(2) Where any vessel, vehicle, article, goods or fish are forfeited to Her Majesty under subsection (5) or (6) of section 64, any person (other than a person convicted of the offence that resulted in the forfeiture or a person in whose possession the vessel, vehicle, article, goods or fish were when seized) who claims an interest in the vessel, vehicle, article, goods or fish as owner, mortgagee, lienholder or holder of any like interest may, within thirty days after such forfeiture, apply by notice in writing to a judge for an order pursuant to subsection (5). 45 50