

Statutory Instrument No. 53 of 2022

PUBLIC FINANCE MANAGEMENT ACT
(Cap. 54:01)

PUBLIC FINANCE MANAGEMENT (CONFISCATED ASSETS
TRUST) FUND ORDER, 2022
(Published on 27th May, 2022)

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IN EXERCISE of the powers conferred on the Minister of Finance by section 38 of the Public Finance Management Act, as read with section 68 of the Proceeds and Instruments of Crime Act the following Order is hereby made —

1. This Order may be cited as the Public Finance Management (Confiscated Assets Trust) Fund Order, 2022. Citation
2. In this Order, unless the context otherwise requires — Interpretation
“Accounting Officer” means the Receiver appointed as such under paragraph 5;
“Committee” means a Management Committee continued under paragraph 6;
“Fund” means the Public Finance Management (Confiscated Assets Trust) Fund continued under paragraph 3; and
“Receiver” means a person appointed as a Receiver under section 46 of the Proceeds and Instruments of Crime Act. Cap. 08:03
3. The Confiscated Assets Trust Fund established under the Confiscated Assets Trust Fund Order by section 68 of the Proceeds and Instruments of Crime Act is hereby continued under a Special Fund known as the Public Finance Management (Confiscated Assets Trust) Fund and shall continue to exist as if established by this Order. Continuation of Fund established under S.I. No. 158 of 2018
4. (1) The purpose of the Fund is to receive, deposit and administer monies in its real or virtual form collected as proceeds and instruments of crime. Purpose of Fund
(2) Without prejudice to the generality of subparagraph (1), the Fund may provide for —
 - (a) compensation and rehabilitation of victims of crime; and
 - (b) capacity building and training programmes for law enforcement agencies involved in the fight against crimes such as money laundering, racketeering and terrorism financing.

Administration
of Fund

5. (1) The Receiver shall be the Accounting Officer and he or she shall be responsible for the administration of the Fund in accordance with the provisions of this Order.

(2) The Accounting Officer may exercise such powers and perform such duties as may be required to be exercised or performed for the proper discharge of his or her duties under this Order.

(3) The Accounting Officer may, in writing, authorise any other public officer to exercise or perform all or any of his or her powers or duties under this Order.

Management
of Fund

6. (1) The Confiscated Assets Trust Fund Implementation Committee established under the Confiscated Assets Trust Fund Order is hereby continued as the Management Committee and shall continue as if established under this Order.

(2) The Committee shall be appointed by the Minister responsible for Justice in consultation with the Accounting Officer and shall consist of –

- (a) the Secretary for Justice who shall be the Chairperson of the Committee;
- (b) the Deputy Receiver;
- (c) a Finance Officer from the Ministry responsible for Justice;
- (d) a representative at Deputy Director level from the Attorney General's Chambers;
- (e) a representative at Deputy Director level from the Financial Intelligence Agency;
- (f) a representative at Deputy director level from the Ministry responsible for finance; and
- (g) a representative at Deputy Director level from the Office of the Receiver who shall provide secretarial services to the Committee.

(3) The Committee shall be responsible for

- (a) overseeing the management of the Fund;
- (b) advising the Accounting Officer with respect to the Fund;
- (c) making recommendations to the Minister responsible for Justice on any changes or amendments in the Fund for subsequent approval by the Minister; and
- (d) reviewing the financial statements of the Fund for subsequent submission to the Accountant-General for incorporation in the Annual Statement of Accounts.

(4) The members of the Committee shall be appointed for a period not exceeding three years, and shall be eligible for re-appointment for a further term, not exceeding three years.

(5) The meetings of the Committee shall be called by the Chairperson who shall preside at any meeting of the Committee.

(6) The quorum at any meeting of the Committee shall be a simple majority of the members.

(7) Subject to the provisions of this Order, the Committee may determine and regulate its own proceedings in accordance with the Act.

Receipts into
Fund

7. There shall be paid into the Fund such monies as may from time to time –

- (a) accrue to the Fund as proceeds from crime arising from forfeiture of confiscation;
- (b) accrue or be realised as interest from monies in the Fund; and

(c) such profits derived or investments and sales made by the Receiver in relation to property confiscated under the Proceeds and Instruments of Crime Act.

8. There shall be paid out of the Fund —

Disbursements
from Fund

(a) the value of seized property at the time of seizure or such other amount as the court may determine where the property concerned is not proceeds or instruments of crime;

(b) costs incurred for carrying out the purpose set out in paragraph 4; and

(c) such other sums as the Minister may, in writing, approve on the recommendation of the Accounting Officer:

Provided that such disbursements qualify as reasonable expenses incurred in the performance of duties consistent with the objects of the Fund.

9. If the Fund is in surplus at the end of a financial year, such surplus shall remain as part of the Fund balance and carried forward into the following financial year.

Surplus in
Fund

10. Any monies accruing to the Fund which is not required for immediate use shall be invested in Botswana in accordance with the objects of the Fund as the Accountant-General may direct and interest from such investment shall accrue to the Fund.

Investment of
Fund monies

11. The Accounting Officer shall —

Accounts of
Fund

(a) keep and maintain or cause to be kept and maintained, proper books of accounts and records of all financial transactions, assets and liabilities of the Fund in respect of each financial year;

(b) maintain an account into which all receipts into the Fund and all disbursements from the Fund shall be recorded and the monthly reconciliation for the Fund accounts shall be carried out; and

(c) prepare, sign and transmit to the Accountant-General and Auditor-General a statement of income and expenditure and a balance sheet of the Fund in respect of the financial year, containing such information in the manner that the Minister in consultation with the Accountant-General may direct, within a period of two months after the close of each financial year.

12. The Confiscated Assets Trust Fund Order is hereby revoked.

Revocation of
S.I. No 158 of
2018

MADE this 14th day of April, 2022.

PEGGY O. SERAME,
Minister of Finance.