

Part XII

Recovered Assets Fund

Section 117 Establishment of Fund

- (1) There is hereby established an account to be known as [insert name of fund, for instance the (name State)'s Recovered Assets Fund].
- (2) The [insert name of authority, for instance Minister of Justice] shall issue regulations for implementation of the provisions of this Part including the distribution of any funds deposited into the Recovered Assets Fund.

Section 118 Receipts and Disbursements

- (1) There shall be credited to the [insert name of Fund]:
 - (a) all monies derived from the fulfilment of confiscation, benefit recovery [*option: extended benefit recovery*] and civil forfeiture orders [*option: and unexplained wealth orders*] and from settlements of confiscation, recovery and forfeiture [*option: and unexplained wealth*] claims;
 - (b) any cash sums made subject to a forfeiture order pursuant to an application under Part VIII or Part IX of this Act;
 - (c) any sums of money allocated to the [insert name of Fund] from time to time by [*variants: legislative or parliamentary*] appropriation;
 - (d) any voluntary payment, grant or gift made by any person for the purposes of the [insert name of fund];
 - (e) any income derived from the investment of any amounts that are credited to the [insert name of fund]; and
 - (f) any sharing of confiscated or forfeited property and funds received from other States.
- (2) [Insert authority, for instance the Minister of Justice] may authorise payments out of the [insert name of fund] to:
 - (a) compensate victims who suffer losses as a result of offences, criminal conduct or terrorism;
 - (b) pay expenses relating to the recovery, management and disposition of property under the provisions of this Act, including mortgages and liens against relevant property, and the fees of receivers, trustees, managers or other professionals providing assistance;
 - (c) share recovered property with foreign States;

- (d) pay third parties for interests in property as appropriate;
- (e) pay compensation ordered by a court pursuant to Sections 65 and 104;
- (f) enable the appropriate law enforcement agencies to continue to address [serious offences or specified offences] and terrorism;
- (g) assist in [insert societal goals, e.g. the rehabilitation of drug users; public education regarding the dangers of drug abuse]; and
- (h) pay the costs associated with the administration of the [insert name of Fund], including the costs of external audits.

Drafting note: There are two ways of dealing with forfeited funds. One is simply to provide that the forfeited funds are credited to the state's general revenue. The other is as provided above.

Section 119 Annual Report and Audit

- (1) The [Minister of Justice] shall send a report that shall be made publicly available to [legislative body; parliament] not later than [insert time period] from the [end of the fiscal year] detailing:
 - (a) the amounts credited to the [insert name of fund];
 - (b) the investments made with the amounts credited to the [insert name of fund]; and
 - (c) the payments made from the [insert name of fund] including the specific purpose for which payments were made and to whom.
- (2) The [Minister of Justice] shall have an annual audit conducted [by external auditors] of disbursements into and out of [insert name of fund].