

Appendix F

Criminal Offences Confiscations Fund

1. Introduction and background

The Criminal Offences Confiscations Fund is established under Article 24 of the Proceeds of Crime (Jersey) Law 1999 and is managed and controlled by the Minister for Treasury and Resources.

The Criminal Offences Confiscations Fund is established to receive money -

- (a) recovered under or in satisfaction of a confiscation order or instrumentalities forfeiture order (as defined in Article 1 of the above Law); or
- (b) received under an asset sharing agreement (which means any agreement or arrangement made by or on behalf of Jersey with a country or territory outside Jersey for the sharing of the proceeds of criminal conduct that, as a result of mutual assistance, have been confiscated or forfeited either in Jersey or elsewhere).

Money paid into the Criminal Offences Confiscations Fund does not form part of the States Consolidated Fund. Money in the Criminal Offences Confiscations Fund is available to the Minister for Treasury and Resources for the following purposes (As per Article 24(4)(a) of the Proceeds of Crime (Jersey) law 1999):

- (a) in promoting or supporting measures that, in the opinion of the Minister for Treasury and Resources, may assist –
 - (i) in preventing, suppressing or otherwise dealing with criminal conduct;
 - (ii) in dealing with the consequences of criminal conduct; or
 - (iii) without prejudice to the generality of clauses (i) and (ii), in facilitating the enforcement of any enactment dealing with criminal conduct;
- (b) discharging Jersey's obligations under asset sharing agreements; and
- (c) meeting the expenses incurred by the Minister for Treasury and Resources in administering the Criminal Offences Confiscations Fund.

Additionally, following consultation with the Attorney General, the Proceeds of Crime (Jersey) Law 1999 may be amended by Regulation to enable specific money to be used for other specific purposes.

Money paid into the Criminal Offence Confiscations Fund can be invested in either a current or deposit account with one or more banks selected by the Minister for Treasury and Resources, with any interest earned paid into the Criminal Offences Confiscations Fund. Confiscated funds may be in any currency.

When funds are confiscated the Law Officers' Department notifies Treasury and Exchequer of the status of the funds confiscated and advises of any ringfencing requirements before funds are deposited. Confiscated funds are not available for allocation until the relevant legal case is concluded and written agreement has been provided by the Law Officers' Department. This written confirmation will detail any negotiated payment due to a third-party, another jurisdiction and the amount available, if any, for use for a purpose approved by the Minister for Treasury and Resources.

Users of this section should refer to other sections of the Public Finances Manual that are relevant. Specifically, these include:

- cash
- banking
- expenditure and procurement
- changes to head of expenditure
- Income
- foreign currency.

In addition to the common risks identified in the Background and Introduction section of this Manual a number of significant risks relating to this section include:

- money paid into the Criminal Offences Confiscations Fund is not used for the purposes intended
- the States or Government of Jersey's reputation may be compromised because of poor control of the Criminal Offences Confiscations Fund
- transfers to fund expenditure are not properly authorised
- money allocated from the Criminal Offences Confiscations Fund is spent on areas of expenditure not intended
- that money due to be shared with another jurisdiction is not available.

2. Principles

1. Money confiscated in accordance with the Proceeds of Crime (Jersey) Law 1999 should be promptly collected and banked.
2. Expenditure from the Criminal Offences Confiscations Fund should follow all relevant procedures set in this Manual for expenditure approved by the States Assembly.
3. Where a confiscation takes place in a foreign currency Treasury and Exchequer should be notified so that consideration can be given to the most appropriate way to manage any foreign exchange exposure.
4. Funds allocated from the Criminal Offences Confiscations Fund should only be used for the purpose approved by the Minister for Treasury and Resources. Any unspent funds should be returned to the Criminal Offences Confiscations Fund. In exceptional circumstances the Minister for Treasury and Resources, having consulted with the Attorney General, may agree that unspent funds are allocated for other purposes which meet the terms of the Criminal Offences Confiscations Fund.

3. Requirements

1. Investing of unallocated funds

The Treasurer of the States must ensure that all money within the Criminal Offences Confiscations Fund is held in an appropriate current or deposit bank account with a bank approved by the Minister for Treasury and Resources or their delegate.

2. Approval of Expenditure

Expenditure must not be directly met from the Criminal Offences Confiscations Fund.

For expenditure approved outside of the Government Plan process, once approval has been given to the proposal, the relevant funding may be transferred from the Criminal Offences Confiscations Fund and allocated as departmental income in the relevant head of expenditure. In order to enable the project to commence approval to use additional income in line with requirements in the Manual's section on Changes to head of expenditure. At this stage accountability for the project moves to the Accountable Officer with responsibility for the head of expenditure which received the income.

This process does not need to be followed for expenditure funded from the Criminal Offences Confiscations Fund and approved as part of a Government Plan. This expenditure is already included in the relevant departmental head of expenditure and has received approval to spend.

3. Investment Appraisal of Expenditure

The Treasury and Resources Minister must consult the Attorney General (and where appropriate any other relevant person) on the proposed use of funds (as per Article 24(4)(a) of the Proceeds of Crime (Jersey) Law 1999) held in the Criminal Offences Confiscations Fund.

To ensure value for money and that proposed projects are in line with States of Jersey priorities all projects put forward for Criminal Offences Confiscations Fund funding must be appraised by the Treasury and Exchequer's Investment Appraisal Team before consideration by the Treasurer of the States who will make a recommendation to the Minister for Treasury and Resources. The Minister for Treasury and Resources holds overall responsibility for deciding what projects are progressed. If the Minister decides to take a different approach from that advised by the Treasurer of the States relevant documented evidence must be retained.

4. Payment under Asset Sharing agreements

The Treasurer of the States must ensure that, where necessary, payments from the Fund meet the terms of any signed asset sharing agreement.

5. Reporting

The Minister for Treasury and Resources must report to the States Assembly at six monthly intervals regarding the use of additional income and the purpose for which it was used.

Details on the financial affairs of the Criminal Offences Confiscations Fund must be reported in the States of Jersey's Annual Report and Accounts.