

Subsidiary Legislation made under s.19.

Public Finance (Control and Audit) (Gibraltar Recovered Assets Fund) Regulations 2023**LN.2023/071***Commencement* **29.3.2023**

ARRANGEMENT OF REGULATIONS

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Public Finance (Control and Audit)

2023/071 **Public Finance (Control and Audit) (Gibraltar Recovered Assets Fund) Regulations 2023**

In exercise of the powers conferred on him by section 19 of the Public Finance (Control and Audit) Act, the Chief Minister has made the following regulations for the purposes for which a special fund may be used, for the manner in which the special fund shall be administered and for the appointment of a controlling officer to control and account for such fund-

Title.

1. These regulations may be cited as the Public Finance (Control and Audit) (Gibraltar Recovered Assets Fund) Regulations 2023.

Commencement.

2. These regulations shall commence on the day of publication.

Interpretation.

3. In these Regulations, “economic crime legislation” means the Imports and Exports Act, 1986, Tobacco Act 1997, Crimes Act 2011, Criminal Procedure and Evidence Act 2011, Proceeds of Crime Act 2015 and any other legislation relating to criminal activity which:

- (a) involves money, finance or assets, the purpose of which is to unlawfully obtain a profit or advantage for the perpetrator or cause loss to others;
- (b) allows criminals to benefit from the proceeds of crime or fund further criminal activities;
- (c) undermines the integrity of Gibraltar’s position as an international finance centre; or
- (d) poses a risk to Gibraltar’s prosperity, national security or reputation.

Establishment.

4. The Gibraltar Recovered Assets Fund was established by Legal Notice No. 70 of 2023 dated Wednesday 29th March 2023 in accordance with the Public Finance (Control and Audit) Act.

Purpose.

5. The purpose of the Gibraltar Recovered Assets Fund shall be to provide for the collection and allocation of certain assets recovered under economic crime legislation in order to provide for certain expenditure incurred by Government in connection with the economic crime

legislation and for the settlement of certain costs and expenditure related thereto that the Government may incur.

Duration.

6. The Gibraltar Recovered Assets Fund shall remain in operation until dissolved by the Minister with responsibility for Finance.

Functions and Procedures.

7. Subject to the express provision of these regulations and the Public Finance (Control and Audit) Act, the respective functions of the controlling officer and all Government officers in carrying out the responsibilities and exercising Government's powers with respect to the Gibraltar Recovered Assets Fund, and the procedures to be followed in the exercise of such functions, shall be the same as those which apply in similar circumstances in the ordinary operations of Government, save that the controlling officer may adopt such guidelines and operating procedures, consistent with these Regulations and the Act, as shall be considered necessary or desirable for the efficient administration of the Gibraltar Recovered Assets Fund.

Authorisations of Disbursements.

8. All disbursements from the Gibraltar Recovered Assets Fund shall be authorised by the Financial Secretary and certified in accordance with its purpose as set out in Regulation 5.

Funding.

9. The resources of the Gibraltar Recovered Assets Fund shall be:

- (a) for the period 1 April 2022 to 31 March 2023, an amount of £100,000 derived from the fulfilment of confiscation, benefit recovery, and civil forfeiture orders and from settlements of confiscation, recovery and forfeiture claims received by Government in this period; and
- (b) for the period commencing 1 April 2023 up to dissolution of the fund, the entirety of all moneys derived by Government from the fulfilment of confiscation, benefit recovery, and civil forfeiture orders and from settlements of confiscation, recovery and forfeiture claims, all Property recovered by Government under economic crime legislation and any payments to be made to Government under Section 63(8) of the Proceeds of Crime Act 2015.

10. The Gibraltar Recovered Assets Fund shall not borrow.

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Controlling Officer.

11. The controlling officer of the Gibraltar Recovered Assets Fund shall be the Financial Secretary and such other alternate officer as appointed in writing by the Minister with responsibility for finance.

Accounting.

12. Government shall maintain accounts of the Gibraltar Recovered Assets Fund in accordance with Government's accounting policies. The accounts of the Gibraltar Recovered Assets Fund shall be prepared on an annual basis (as soon as reasonably practicable after each financial year end) and presented in GBP as soon as reasonably practicable.

Deficit.

13. The Gibraltar Recovered Assets Fund shall not be allowed to fall into an overall cumulative deficit.

Audit.

14. The accounts of the Gibraltar Recovered Assets Fund shall be audited by the Principal Auditor in accordance with the same audit requirements as are applied to Government accounts. The controlling officer shall remit all accounting information required by the Principal Auditor as soon as reasonably practicable. The Principal Auditor shall prepare a report certifying that all payments have been made in accordance with the purpose set out in Regulation 4 and shall submit that report to the Minister with responsibility for finance as soon as reasonably practicable.