

WARNER SHAND LAWYERS WAIGANI

Level 1, RH Hypermart Building, Gordons, PO Box 583 Gordons NCD Post Code 135 Papua New Guinea
Phones 3254422, 3254429, 3254970 Fax 3250682, wswaigani@datec.net.pg
Partners: Bill Frizzell, Michael Wilson

Our ref: 9140135WJF:303

Your ref: Ms. Alice Nasu

18th August 2016

Office of the Solicitor General
Level 7 Sir Buri Kidu Haus
Waigani
National Capital District

by delivery

For the attention of Ms. Alice Nasu

Dear Ms. Nasu,

1. O.S NO. 220 – EVALUATION CONSULT (NEW ZEALAND) LIMITED vs. INDEPENDENT STATE OF PAPUA NEW GUINEA
2. SECTION 13(2) CLAIMS BY AND AGAINST THE STATE ACT – CERTIFICATE OF JUDGEMENT

We refer to our letter dated 01.06.2016, copy enclosed, recent electronic mail and discussion.

As you will recall during the week commencing 25.07.2016 the office of the Solicitor General, by electronic mail, required us to lodge a further certificate of judgment with the registrar to be again endorsed by him and containing an endorsement for the Solicitor General to sign.

We enclose copy our letter delivered the office of the Registrar of the National Court 01.08.2016.

On 15.08.2016 when our clerk Kukuna Arua attended the National Court registry to enquire at the registry as to endorsement of the further certificate of judgment lodged 01.08.2016 Ian Augerea, the registrar, was in the registry and in respect of the further certificate of judgment, informed our Mr. Arua, words to the effect, as following: -

"The registrar said the form 1 in accordance with the Claims By and Against the State Act ends as marked. The additional clause for the solicitor general to sign is in accordance with a practice direction.

I signed off the originally lodged certificate of judgement as that was the correct form for me to sign.

In such cases as this the practice direction form is not so relevant as the lawyer from the solicitor general's office who has carriage of this matter should just endorse the base of the form after I have certified it.

You must serve the previously filed certificate of judgement which I signed off at the solicitor general and ask the relevant lawyer to endorse the base. If he/she has any problem please provide my email address or ask him/her to contact me and I will explain further.

Following that advise the email address we have for the registrar is iaugerea@pngjudiciary.gov.pg or his secretary msip@pngjudiciary.gov.pg

It would be appreciated if the office of the solicitor general could resolve this matter with the registrar with a view to having the certificate of judgment endorsed by the solicitor general as soon as may be convenient.

We take this opportunity to thank you in anticipation of your assistance.

Yours faithfully,
WARNER SHAND



Bill Frizzell

encls.

WARNER SHAND LAWYERS WAIGANI

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Phones 3254422, 3254429, 3254970 Fax 3250682, wswaigani@datec.net.pg
Partners: Bill Frizzell, Michael Wilson

Our ref: 9140135WJF:303

Your ref: Miss Alice Nasu

1st June 2016

The Solicitor General
Office of the Solicitor General
Level 7 Sir Buri Kidu Haus
Waigani
National Capital District

by delivery

For the attention of Ms. Faith Barton-Keene

Dear Madam,

1. O.S NO. 220 – EVALUATION CONSULT (NEW ZEALAND) LIMITED vs. INDEPENDENT STATE OF PAPUA NEW GUINEA
2. SECTION 13(2) *CLAIMS BY AND AGAINST THE STATE ACT* – CERTIFICATE OF JUDGEMENT

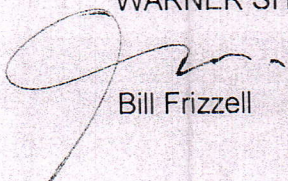
Enclosed by way of service sealed copies of: -

- o orders made 19.04 entered 21.04.2016; and
- o certificate of judgment pursuant to section 13(2) of the *Claims By and Against the State Act* ("the Act") filed and dated 31.05.2016 duly endorsed by the registrar.

Kindly acknowledge receipt.

It would be appreciated if the Solicitor General could provide us the necessary endorsement required by section 14(2) of the Act within sixty days from the date of service of the enclosed sealed certificate so that we may effect service of it on the departmental head responsible for finance matters.

Yours faithfully,
WARNER SHAND



Bill Frizzell

encls.

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Partners: Bill Frizzell, Michael Wilson

Our ref: 9140135\WJF:303

Your ref:

1st August 2016

The registrar
National Court of Justice, Waigani
PO Box 7018
Boroko
National Capital District

by delivery

For the attention of Mr. Ian Augerea

Dear Registrar,

O.S NO. 220 – EVALUATION CONSULT (NEW ZEALAND) LIMITED vs. INDEPENDENT
STATE OF PAPUA NEW GUINEA

We act for the plaintiff and enclose copy sealed certificate of judgment endorsed by the
registrar 31.05.2016.

Also enclosed in quadruplicate is another certificate for endorsement by the registrar. You will
see that at its base on page 2 the endorsement in blank for the solicitor general to sign in
accordance with practice direction 1/1998 has been included. Unfortunately the office of the
solicitor general is apparently insisting that we have the certificate endorsed again by yourself
which also contains the certificate for the purpose of the solicitor general as enclosed.

In the circumstances it would be appreciated if the registrar could attend to this as soon as
may be possible.

We look forward to collecting sealed copies of document as soon as possible.

Yours faithfully,
WARNER SHAND


Bill Frizzell

encls.

PAPUA NEW GUINEA

IN THE NATIONAL COURT)
OF JUSTICE AT WAIGANI)

O.S NO. 220 OF 2015

BETWEEN:
EVALUATION CONSULT (NEW ZEALAND)
LIMITED
Plaintiff

AND:
THE INDEPENDENT STATE OF PAPUA
NEW GUINEA
Defendant

CERTIFICATE OF JUDGEMENT

Date ordered: 19th April 2016
Date filed:
Date entered:

WARNER SHAND
Lawyers
Level 1 R.H Hypermart,
off Kennedy Road, Waigani
(P.O Box 583, Gordons N.C.D)
Telephone 3254422, 3254429
Facsimile 3250682
File ref 9140135\WJF:303
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2.

- (c) Kate Averill's return airfares from Wellington to Port Moresby at economy class rate and her reasonable hotel expenses and other local expenses in connection with her attendance as a witness for Evaluation Consult (NZ) Ltd at the arbitration hearing; such costs to be taxed if not agreed;
- (d) Arbitrator Jeff Sheherd's costs assessed at K37, 650.
- (e) Reimbursement of Evaluation Consult (NZ) Ltd in the sum of K12, 825 for that company's payment on 27 May 2015 of 50% Arbitrator's interim fee memo dated 22 May 2015.

I certify that:-

- (a) the judgment may be satisfied.

Dated the day of 2016

.....
Registrar

I certify that --

- (c) the judgement may be satisfied

OR

- (d) the State proposes to take further action in this matter and satisfaction of judgment cannot take place.

Dated the day of 2016

.....
Solicitor General

5. TRIAL, JUDGEMENT & ENFORCEMENT

a) **PRACTICE DIRECTION GEN 1 /998 (issued 18th December 1998)**

CERTIFICATE OF JUDGEMENT

Sec. 13 (2) of the Claims By and Against the State Act states:

Where a judgement is given against the State, the Registrar, Clerk or other proper officer of the Court by which the judgement is given shall issue a Certificate in Form 1 to the party in whose favour the judgement is given.

Section 14 (2) of the Claims By and Against the State Act states:

The Solicitor-General shall, within 60 days from the date of service upon him of a certificate under Section 13(2), endorse the certificate in Form 1.

The certificate as it appears in the Schedule is in the following form.

PAPUA NEW GUINEA

Claims By and Against the State Act.

Sec.13(2)

Form 1.

CERTIFICATE OF JUDGEMENT

A.B. v. The Independent State of Papua New Guinea.

I certify that A.B., of, on 19, did obtain a judgement of the (name of court) in his favour, and that by such judgement the sum of K was awarded to him.

I certify that –

(a) *the judgement may be satisfied*

OR

(b) *the State proposes to take further action in this matter and satisfaction of judgement cannot take place*

Dated ... 19.

**REGISTRAR (or Clerk)
(Name of Court)**

It is clear from the two subsections quoted above that the form in fact does not correspond with the provisions of the two subsections.

As of the date of this Practice Direction the Certificate of Judgement to be prepared by Lawyers and issued by the Courts should be drafted as follows:

PAPUA NEW GUINEA

Claims By and Against the State Act.

Sec.13(2)

Form 1.

CERTIFICATE OF JUDGEMENT

A.B. v. The Independent State of Papua New Guinea.

I certify that A.B., of, on 19, did obtain a judgement of the (name of court) in his favour, and that by such judgement the sum of K was awarded to him.

Dated ... 19

**Registrar (or Clerk)
(Name of Court).**

I certify that -

- (c) the judgement may be satisfied**
- OR**
- (d) the State proposes to take further action in this matter and satisfaction of judgement cannot take place**

Dated ... 19.

Solicitor General

(b) PRACTICE DIRECTION SH 1/95 (issued 13th October 1995)

DUTIES OF SHERIFF - Service of Orders

Section 3 of the Sheriff Act provides an outline for the roles of the Sheriff. The National Court Rules do not provide much detail on these roles of the Sheriff, and in fact mainly cover his role viz Execution of process, but Order 6 Rule 34 does provide an illustration of some of those roles.