

CLAIMS BY AND AGAINST THE ADMINISTRATION ORDINANCE 1927-1931.⁽¹⁾

An Ordinance to provide for Claims by and against the Administration of the Territory.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920-1926*, as follows:—

1. This Ordinance may be cited as the *Claims by and against the Administration Ordinance 1927-1931*.⁽¹⁾

Short title.
Amended by
No. 3 of 1934,
s. 50.

2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*.⁽¹⁾

Commencement.

3. In this Ordinance, unless the contrary intention appears, "suit" includes any action or original proceeding between parties in any Court of competent jurisdiction.

Interpretation.

4. Any person making any claim against the Administration whether in contract or in tort may in respect of the claim bring a suit against the Administration in any Court of the Territory in which such a suit may be brought as between subject and subject.

Suits against
Administration.

5. Suits on behalf of the Administration may be brought in the name of the Administration by the Crown Law Officer of the Territory or, in respect of any suit brought in a District Court, by the Crown Law Officer or by any person appointed by the Administrator in that behalf.

Suits by
Administration.
Amended by
No. 23 of 1931,
s. 2.

(1) The *Claims by and against the Administration Ordinance 1927-1931* comprises the *Claims by and against the Administration Ordinance 1927*, as amended by the other Ordinance referred to in the following Table:—

ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Governor-General in Council.	Date on which notified in Commonwealth Gazette.	Date on which took effect.
<i>Claims by and against the Administration Ordinance 1927</i> (No. 3 of 1927)	25.1.1927	27.1.1927	8.4.1927 (<i>N.G. Gaz.</i> of 31.3.1927)
<i>Claims by and against the Administration Ordinance 1931</i> (No. 23 of 1931)	25.8.1931	27.8.1931	27.8.1931 (<i>Cwth. Gaz.</i> of 27.8.1931)

CLAIMS BY AND AGAINST ADMINISTRATION—

Service of
process where
Administration
is a party.
Amended by
No. 23 of 1931,
s. 3.

6. Where the Administration is a party to a suit all process in the suit required to be served upon that party shall be served upon the Crown Law Officer of the Territory or, in respect of any suit brought in a District Court, upon the Crown Law Officer or upon some person appointed by the Administrator to receive service.

Rights of
parties.

7. In any suit to which the Administration is a party the rights of parties shall as nearly as possible be the same, and judgment may be given and costs awarded on either side, as in a suit between subject and subject.

No execution
against
Administration.

8. No execution or attachment or process in the nature thereof shall be issued against the property or revenue of the Administration in any suit; but when any judgment is given against the Administration, the registrar clerk or other officer of the Court by which such judgment is pronounced shall give to the party in whose favour the judgment is given a certificate in the form of the First Schedule to this Ordinance or to the like effect.

Performance
by the
Administration.

9. On receipt of the certificate of a judgment against the Administration the Treasurer of the Territory shall satisfy the judgment out of moneys legally available.

Execution
by the
Administration.

10. When in any suit a judgment is given in favour of the Administration and against any person the Administration may enforce the judgment against that person by process of extent, or by such execution, attachment, or other process as could be had in a suit between subject and subject.

Certain fines,
how
recoverable.

11.—(1.) When any fine is imposed upon any person otherwise than by a judgment or conviction of some Court Magistrate or Justice, the Judge or a Magistrate of the Court by which, or the Magistrate or Justice by whom, the fine is imposed shall, if the fine is not immediately paid, by certificate under his hand in the form of the Second Schedule hereto or to the like effect certify that fact together with the name and the place of abode or business of the person on whom the fine is imposed and the cause and amount of the fine, and shall deliver the certificate or send it by post to the Crown Law Officer of the Territory.

(2.) Upon receipt of the certificate the Crown Law Officer shall cause a final judgment to be signed in the Central Court⁽²⁾ for the amount of the fine together with One pound for costs.

(3.) Every judgment under the last preceding sub-section may be in the form of the Third Schedule to this Ordinance and may be enforced in the same manner as any other judgment of the Central Court.⁽²⁾

(2) See Section 7A of the *Judiciary Ordinance 1921-1938*.

12.—(1.) When any person has entered into any recognizance to the Administration and the recognizance is forfeited, the Judge or a Magistrate of the Court before which or the Magistrate or Justice before whom it is forfeited may cause the recognizance to be estreated, and in that case the Judge, Magistrate or Justice shall, by a certificate under his hand in the form of the Fourth Schedule hereto or to the like effect, certify that the forfeiture has taken place, and shall cause to be delivered or sent by post to the Crown Law Officer of the Territory the recognizance and certificate.

Debts due by recognizance to be recovered by judgment.

(2.) Upon receipt of the recognizance and certificate the Crown Law Officer shall cause a final judgment to be signed in the Central Court⁽²⁾ for the amount of the recognizance and One pound for costs.

(3.) Every judgment under the last preceding sub-section may be in the form of the Fifth Schedule to this Ordinance and may be enforced in the same manner as any other judgment of the Central Court.⁽²⁾

13. When any final judgment is signed under the provisions of the two last preceding sections, whether execution has been issued thereon or not, the Central Court⁽²⁾ or a Judge thereof may order satisfaction to be entered upon the judgment:

Judgments on fines and recognizances may be vacated by Court or Judge.

Provided that no such order shall be made except upon a rule nisi or summons calling upon the Crown Law Officer of the Territory to show cause, or unless it is proved by affidavit, to the satisfaction of the Court or Judge, either that the judgment has been satisfied, or that according to equity and good conscience and the real merits of the case the person against whom the judgment has been signed ought not to be required to satisfy the judgment.

SCHEDULES.

THE FIRST SCHEDULE.

Section 8.

A.B. v. The Administration of New Guinea.

I hereby certify that A.B., of _____, did on the _____ day of _____, 19____, obtain a judgment of the [name of Court] in his favour, and that by such judgment the sum of £ _____ was awarded to him.

Dated this _____ day of _____, 19____.

Registrar [or Clerk].
[Name of Court.]

(2) See Section 7A of the Judiciary Ordinance 1921-1938.

CLAIMS BY AND AGAINST ADMINISTRATION—

THE SECOND SCHEDULE.

Section 11.

I hereby certify that at the _____, held at _____ on the _____ day of _____, 19____, C.D., of [place of abode or business and occupation] was fined the sum of £ _____ for [cause of fine].

Dated at _____ this _____ day of _____, 19____.
Judge [Magistrate or Justice].

THE THIRD SCHEDULE.

Section 11 (3).

In the Central Court,
Territory of New Guinea.

On the application of *A.B.*, Esquire, Crown Law Officer of the said Territory, who gives the Court to understand and be informed that at the _____, held at _____ on the _____ day of _____, 19____, before *C.D.*, a fine of _____ pounds was imposed on *E.F.* for that he [state cause of fine] as by the certificate of the said *C.D.* now filed of record appears: It is adjudged that the Administration of New Guinea do recover against the said *E.F.* the said sum of £ _____ and One pound for costs, making together the sum of £ _____.

THE FOURTH SCHEDULE.

Section 12 (1).

I hereby certify that at the _____, held at _____ on the _____ day of _____, 19____, the recognizances hereto annexed were forfeited and were then and there caused to be estreated.

Dated at _____ this _____ day of _____, 19____.
Judge [Magistrate or Justice].

THE FIFTH SCHEDULE.

Section 12 (3).

In the Central Court,
Territory of New Guinea.

On the application of *A.B.*, Esquire, Crown Law Officer of the said Territory, who gives the Court to understand and be informed that at the _____, held at _____ on the _____ day of _____, 19____, before *C.D.*, the recognizance of one *E.F.* by which he acknowledged to owe the Administration of New Guinea the sum of _____ pounds was forfeited and estreated as by the said recognizance and the certificate of the said *C.D.* now filed of record appears: It is adjudged that the Administration of New Guinea do recover against the said *E.F.* the said sum of £ _____ and One pound for costs, making together the sum of £ _____.
