

FMM 03.18 Claims by and against the State

18.1 Authority and Prescribed Requirements

- Claims By and Against the State Act 1996 (CBASA):
 - Section 5 requires that notice of a claim be served on the Attorney-General or the Secretary for Justice within six months of the date of the cause of action.
 - Section 7 prohibits any legal proceedings against the State without proper notification and adherence to prescribed procedures.
- Public Finances (Management) Act 1995 (PFMA):
 - Section 5 places responsibility on Departmental Heads to safeguard public funds, which includes managing liabilities arising from claims.
 - Section 43 specifies that where the National Budget does not contain sufficient appropriations for that part of contracts that are to be executed in the following financial years for an APC, the contracts not appropriated are cancelled and no compensation, damages or other relief shall be awarded by any court for any contract cancelled.
 - Section 44 states that any contract entered into for the purchase of property or stores or to supply goods and services has no legal effect where the contract had no APC or purchase order.

18.2 Standards and Supporting Documentation

Nil

18.3 Minimum Responsibilities

Attorney-General and Department of Justice is to receive and evaluate notices of claims against the State under CBASA Section 5 and represent the State in legal proceedings or negotiations.

Department heads are responsible for notifying the Department of Finance and Attorney-General's office immediately upon becoming aware of a potential claim and provide all relevant documentation and support for resolving claims promptly.

Heads of Finance are to record and reconcile liabilities related to claims in financial statements and verify documentation before processing any payments for claims settlements.

18.4 Mandated Policy

1. A claim against the State shall not be enforced unless the seller or supplier can produce a properly authorised Integrated Local Purchase Order and Claim or an Authority to Pre-Commit.
2. All claims against the State must follow the procedural requirements set out in the Claims By and Against the State Act 1996. Payments for settled claims must align with the PFMA and adhere to proper financial management principles to ensure accountability and transparency.

18.5 Non-Mandatory Guidance

18.5.1 Types of Claims Against the State

Type of Claim	Definition	Examples
Tort Claims	Arising from alleged negligence, defamation, or other civil wrongs.	Personal injury claims, property damage.
Contractual Claims	Disputes arising from State contracts or agreements.	Non-payment of invoices under government contracts.
Statutory Claims	Claims related to statutory breaches or unlawful actions by public entities.	Breach of statutory duties or employment-related claims.
Ex-Gratia Payments	Voluntary payments made by the State without legal obligation.	Payments to address community grievances or non-contractual damages.

Claimants must serve a notice to the Attorney-General or Secretary for Justice within six months of the cause of action (CBASA Section 5). Departmental Heads must forward any received claims to the Department of Justice.

Further Information	frcd@finance.gov.pg
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