

Papua New Guinea's statutory limitation periods: Are you out of time?

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Key Points

- If you are lodging a claim for breach of contract or tort, you must do so within 6 years from the date that the cause of action arose.
- There are some exceptions where the limitation period is 12 years.
- For actions against the State, you must provide written notice of the claim within 6 months from when the claim arose.

Introduction

Like many countries around the world Papua New Guinea (**PNG**) has enacted specific legislation dealing with time limits on when a party may make a claim. Claims made outside statutory time limitations are generally not allowed by the PNG courts. There are some exceptions to this rule- for example, if the person making the claim has a disability.¹

If you have a claim falling within the PNG jurisdiction you need to act quickly and understand some basics about time limitations, otherwise you could be prevented from making a claim.

So what do you need to know about time limitation periods in PNG?

Time limitations for contract and tort claims in PNG

The *Frauds and Limitations Act* 1988 provides the limitation periods which apply in relation to simple contracts and tort (such as negligence and breach of confidence). The *Frauds and Limitations Act* permits actions for breach of contracts and tort to be brought within a period of **6 years** commencing on the date on which the cause of action arose². In certain circumstances the period is extended to 12 years, for example with claims relating to a right to receive a benefit from a personal estate.

Claims against the state

There is specific legislation dealing with claims made against State. If you intend to make a claim against the State in contract or in tort then you need to make sure you comply with the time limitations and other provisions contained under the *Claims By and Against the State Act* 1996. The Act provides

¹ See section 22 of the *Frauds and Limitations Act 1988* which provides that an action can be brought "at any time before the expiration of six years commencing on the date when the person ceases to be under the disability, notwithstanding that the period of limitation has expired".

² See section 16 of the *Frauds and Limitations Act*.

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that written notice of the claim must be given to the State and be made **within 6 months** from when the claim arose. It is important to note that no action to enforce any claim against the State can be made unless:

- (a) proper notice is made in writing of intention to make a claim against the State;
- (b) notice is made within 6 months from when the claim arose; and
- (c) notice is properly served on:
 - (i) the Departmental Head of the Department responsible for justice matters; or
 - (ii) the Solicitor-General.

Conclusion

PNG has enacted legislation that sets strict limitation periods for claims made under breach of contract, tort, and against the State. If you believe you have a valid claim, you should always act promptly to prevent your claim from being statute-barred.

Contact

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