

Second Reading Speech by the Minister for Justice on the Claims By and Against the State (Amendment) Bill 2022

Mr. Speaker and members of this honourable House, it gives me great pleasure to introduce the *Claims By and Against the State (Amendment) Bill 2022* which amends the *Claims by and Against the State Act 1996*.

Mr. Speaker, the primary amendment is made to Sections 5 and 6 of the *Claims by and Against the State Act* which provides for *Notice of Claims Against the State and Fees*. The aim of the amendment is to:

1. improve the State's ability to defend itself against frivolous and vexatious claims and serial litigants;
2. allow the State to conduct further assessment of the legitimacy of claims made against the State and undertake an investigation to determine the approach it must take in addressing the claims; and
3. ensure that the State is not liable to pay fees for court documents relating to a court proceeding.

Mr. Speaker, the *Claims By and Against the State Act* has been in force for more than 26 years steering the delivery of State Legal Services. However, as times and circumstances change, the laws should also be amended to reflect these changes thereby reflecting the current status quo.

The changing landscape of the delivery of State Legal Services has exposed glaring gaps within the law resulting in abuse of the State Legal Services. Over the years, the State has lost significant funds against frivolous and vexatious claims as a result of loopholes identified in the laws and used to the advantage of serial litigants.

Mr. Speaker, past and recent Supreme Court decisions established that, in tort claims that were brought against the State, the law did not require the tortfeasors to be specifically named in the court proceeding as it was sufficient that naming the State as a party to the proceedings, was the only prerequisite for establishing vicarious liability against the State. This was also applicable in cases of breach of contract wherein, the particulars of a contract were not required to be mentioned in the claim.

Furthermore, although the State was exempted from paying fees for documents related to the court filing process, where the State sought to appeal a case, it had to pay fees for accessing court transcripts to assist in preparing its submission for appeal.

These inconsistencies affected the ability of the State specifically the Office of the Solicitor General to assess the legitimacy and merits of the claim and initiate investigations to determine the best approach to undertake in addressing the claim.

Mr. Speaker, it was the court decisions that prompted the legal reform to address the inconsistencies within the law. The amendments to the *Claims by and Against the State Act* makes it mandatory for the alleged wrong doer to be named in the notice and specifically state the date and time of the cause of action. Additionally, the amendment to Section 6 of the Act ensures that the State will now be exempted from paying fees to access court transcripts.

Mr. Speaker, the amendments to the *Claims By and Against the State Act* will strengthen the State's ability to defend itself against unmeritorious claims curbing adverse exploitation of the law regarding claims brought against the State. The amendments to the *Claims By and Against the State Act* are consistent with the *Constitution* and other pieces of legislation that will enhance and strengthen the existing government mechanisms for better access to justice for all.

Mr. Speaker, the amendments to Section 5 of the *Claims By and Against the State Act 1996*, consequentially necessitates an amendment to the *Wrongs (Miscellaneous Provisions) Act 1975*, Chapter No.297 of the Revised Laws that will be tabled separately as the *Wrongs (Miscellaneous Provisions) Bill 2022*.

Mr. Speaker, with that I commend the Claims By and Against the State (Amendment) Bill 2022 to this honourable House.

Hon. Bryan Kramer, MP
Minister for Justice