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[2014

*Commissions of Inquiry Act (Chapter 31)*

## APPOINTMENT OF ESTABLISHMENT OF COMMISSION OF INQUIRY INTO PAYMENTS TO LAWYERS AND LAW FIRMS BY STATES AGENCIES

I, Peter O'Neill, Prime Minister, by virtue of the powers conferred by Section 4A of the *Commissions of Inquiry Act* (Chapter 31) and all other powers me enabling, hereby:

- (a) approve and extend the Commission of Inquiry into payments to Lawyers and Law Firms by State Agencies for a period of two (2) months, ending on the 22nd of December, 2014; and
- (b) re-appoint Warwick Andrew to be sole Commissioner and Chairman of the Commission of Inquiry, for a period of two (2) months, ending on the 22nd of December, 2014.

Dated this 22nd day of October, 2014.

P. O' NEILL,  
Prime Minister.

*Commissions of Inquiry Act (Chapter 31)*

## COMMISSION OF INQUIRY INTO PROCESS AND PROCEDURES USED TO BRIEF OUT MATTERS TO LAW FIRMS AND THE PROCESS AND PROCEDURES FOR PAYING PUBLIC MONIES TO LAW FIRMS

To: Judge Warwick John Andrew, CBE, CRH.

### STATEMENT OF CASE

1. In 2009, the final report of the Commission of Inquiry into the Department of Finance was handed to Government. Due to outstanding legal action the findings of the Report were not able to be implemented until late 2013. That Report (among other things) recommended that:
  - (a) an Attorney General's Brief Out Tenders Board be established; and
  - (b) a separate appropriation is made for brief outs; and
  - (c) all fee notes for brief outs are issued in taxable form.

Commission of Inquiry into Process and Procedures used to brief out Matters to Law Firms and the Process and Procedures for paying Public Monies to Law Firms—*continued*

Statement of Case—*continued*

2. Although some new processes have been put into place there continues to be serious allegations that brief outs to law firms have not been in accordance with the *Attorney General's Act 1989* and has not resulted in value for money and fair representation of the State.
3. It has also been alleged that large payments have been authorized to law firms in contravention of the *Public Finances (Management) Act 1995* and the *Attorney General's Act 1989*. It is alleged that these payments were facilitated by public servants and did not represent value for money.
4. These allegations have been ongoing and have seriously damaged the reputation of government agencies and brought law firms into disrepute. In order for public welfare, the Commission of Inquiry into the processes and procedures for briefing out matters to law firms and the process and procedures for paying public monies to law firms is hereby established pursuant to Section 2(1) of the *Commission of Inquiry Act (Chapter 31)*.

TERMS OF REFERENCE

KNOW you that I, Hon Peter O'Neill, CMG, MP, Prime Minister of Papua New Guinea, reposing confidence in your integrity and ability to do, by virtue of the powers conferred by Section 2 of the *Commission of Inquiry Act (Chapter 31)*, and all other powers me enabling, hereby —

1. require the Commissioner and the Commission to enquire into and report on the following matters —
  - (a) the current practices and procedures used to award brief outs to law firms by the State, State agencies and Provincial Governments; and
  - (b) the current practices and procedures for processing payments or claims lodged by law firms for work completed.
2. to inquire into case from the last two (2) years and investigate in detail a sample of such cases to determine whether practices and procedures for brief outs and payments to law firms have been properly followed, such detailed investigation to be generally confined to cases in which the first memorandum of fees in relation to work completed was delivered within the last two years; and
3. to identify any weaknesses for avenues for corrupt conduct arising as a result of the practices and procedures for brief outs and payments to law firms by the State, State agencies and Provincial Governments; and
4. to make recommendations in relation to the practices and procedures for brief outs and payments to law firms that will minimize the opportunity for corruption and ensure value for money for the State, State agencies and Provincial Governments.

AND I FURTHER direct that the Inquiry be held in the National Capital District, or at such other places in Papua New Guinea or elsewhere as to you may appear necessary and expedient.

AND I FURTHER direct that the Inquiry shall be held in public, but I approve that you may permit to be given in private, any evidence that in the course of your inquiry you, in your absolute discretion, consider needs to be given in private in accordance with Section 2(5) of the *Commission of Inquiry Act (Chapter 31)*.

AND I FURTHER direct that you shall commence with the Inquiry without delay and proceed therein with all dispatch and render to me your final report within two (2) months before 22nd of December, 2014.

Dated this 22nd day of October, 2014.

P. O'NEILL,  
Prime Minister.