



Commissions of Inquiry Act 1951 (Chapter 31)

**ROYAL COMMISSION OF INQUIRY
INTO PROCESSES AND PROCEDURES FOLLOWED BY THE GOVERNMENT OF
PAPUA NEW GUINEA INTO OBTAINING THE OFF-SHORE LOAN FROM THE
UNION BANK OF SWITZERLAND AND RELATED TRANSACTIONS**

**PRACTICE NOTE
*No. 4 of 2021***

Introduction

1. This Practice Note No. 4 details the procedure for a witness by counsel or personally (“the cross-examiner”) to seek leave to examine another witness (“the cross-examinee”), as referred to in paragraphs 19 and 20 of Practice Note No. 3.
2. This Practice Note No. 4 is supplementary to Practice Note No. 3. To the extent of any inconsistency, this Practice Note No. 4 supersedes Practice Note No. 3.

Notice seeking leave to cross-examine

3. Notice seeking leave to examine a cross-examinee shall be given in writing using the form at Schedule A to this Practice Direction (“the Notice”), to the Technical Assistants and International Solicitors Assisting the Commission of Inquiry by email to coisolicitorsassisting@minterellison.com, attention Ms Kathryn Finlayson (“the Solicitors Assisting”).
4. The Notice shall state:
 - (a) the name of the cross-examiner and, if applicable, the name and firm of the legal representative of the cross-examiner;
 - (b) the name of the cross-examinee/s;
 - (c) the topics and cross-examination questions the cross-examiner intends to put to the cross-examinee/s (“the cross-examination subjects”);
 - (d) references to the cross-examinee’s statement, affidavit, statutory declaration or the like, including references to the date of the document, exhibit number, page and/or paragraph number (as applicable), annexure or exhibit number (as applicable), or transcript references to any oral evidence, that are relevant to the cross-examination subjects; and
 - (e) the grounds on which it is submitted that the cross-examiner has a relevant interest in the cross-examination subjects, including references to the cross-examiner’s own evidence.
5. Subject to any further leave or extension of time granted by the Commission, the deadline for giving the Notice is Tuesday, 20 July 2021 at 4pm.

Review by Counsel Assisting

6. Counsel Assisting shall review the Notice and decide (“Counsel Assisting’s decision”):
 - (a) whether, in the decision of Counsel Assisting, the cross-examiner has a relevant interest in the cross-examination subjects, or not; and
 - (b) if so, whether Counsel Assisting are able to put the cross-examination subjects to the cross-examinee in place of the cross-examiner.
7. Counsel Assisting’s decision shall be provided to the cross-examiner by Wednesday, 21 July 2021 at 4pm.

Grant of leave to cross-examine

8. To the extent that the cross-examiner disagrees with Counsel Assisting’s decision (paragraph 7) and wishes to press the matters referred to in the Notice, the cross-examiner shall provide to the Solicitors Assisting brief written submissions addressed to the Commission by Tuesday, 23 July 2021 at 4pm.
9. The Commission may grant leave to a cross-examiner to examine a cross-examinee.
10. Such leave may be granted on terms, including (without limitation) the following:
 - (a) limitation of the cross-examination subjects;
 - (b) the imposition of time or other limitations upon the examination; and
 - (c) the requirement for Counsel Assisting to put the cross-examination subjects to the cross-examinee in place of the cross-examiner.
11. If leave is not granted by the Commission pursuant to paragraphs 8-10 above, the Commission may grant leave to be further heard in oral hearing as to the matters referred to in Notice.
12. Nothing in this Practice Note No. 4 prevents a person from seeking, or further seeking, leave to examine a witness at any time, whether in writing or orally, on notice or on an urgent basis, if something that has occurred during a hearing or in documents leads the person to believe their interest may be affected. Whether or not the person has complied with the foregoing paragraphs of this Practice Note No. 4 will be a factor taken into account by the Commission in the grant of any such leave.


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Chief Sir Salamo Injia Kt GCL
Commissioner and Chairman
Dated: 15 July 2021




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The Honourable Margaret White AO
Commissioner
Dated: 15 July 2021





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SCHEDULE A TO PRACTICE NOTE No. 4 OF 2021

NOTICE SEEKING LEAVE TO CROSS-EXAMINE

1. The name of the person seeking to cross-examine:

2. Contact details of the person or their legal representative seeking to cross-examine (name, email, legal practice name, mobile number, phone number, address):

3. The name of any person sought to be cross-examined:

4. The topics, sub-topics and/or questions the person or their legal representative seeking to cross-examine intends to put to the person sought to be cross-examined:

5. Reference/s to the affidavit, statutory declaration, statement, transcript and/or document, including references to the date of the document, exhibit number, other document identifier (WIT number), page and/or paragraph number (as applicable), annexure or exhibit number (as applicable), or transcript references to any oral evidence, that are relevant to the cross-examination topic in paragraph 4 above:

6. The grounds on which it is submitted that the person seeking to cross-examine has a relevant interest in the cross-examination topic in paragraph 4 above, including specific references to evidence of the person seeking to cross-examine:

7. Has the person seeking leave to cross-examine in paragraph 1 above been granted leave to appear before the Commission of Inquiry:

8. If leave has been granted the date of the granting of leave, including reference to order as made and/or transcript reference:

Signed

Dated

A separate Notice is to be completed for each person sought to be cross-examined.

This completed Notice seeking leave to cross-examine is to be sent in writing to the Technical Assistants and International Solicitors Assisting the Commission of Inquiry by email to coisolicitorsassisting@minterellison.com, attention Ms Kathryn Finlayson.