



**Standard Operating Procedure
for
Property and Judgment Enforcement Division**



Standard Operating Procedure for Property and Judgment Enforcement Division



ཕྱི་དོན་ཡོངས་ཁྲབ་ཡིག་ཚང་།
Office of the Attorney General
ROYAL GOVERNMENT OF BHUTAN




Foreword

As enshrined under Article 29 of the Constitution of Bhutan, the Office of the Attorney General is the central litigation and prosecuting agency of the Government with a mandate to promote fair, impartial and just proceedings in both civil and criminal cases. Once the judgments are rendered by the Hon'ble courts, the enforcement division under the department of justice undertakes the pivotal role to give life to the judgment. In pursuit of this overarching obligation and the responsibility to facilitate the administrative and professional requirements of the office, this standard operating procedure is framed in exercise of the power granted under section 101 of the *Office of the Attorney General Act 2015* to stipulate the internal process for enforcement and to guide employees of the Office of the Attorney General and others who undertakes task on behalf of the Attorney General.

The enforcement division must consider the public interest, act with objectivity, take proper account of the position of the parties involved, and pay due attention to every relevant circumstance.

Therefore, this Standard Operating Procedure 2022 is hereby issued for strict compliance.

Tashi Delek


(Lungten Dubgyur)

Attorney General
Office of the Attorney General
Thimphu: Bhutan



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Standard Operating Procedure for Judgment Enforcement Division, 2022

In exercise of the power vested by section 101 of the Office of *the Attorney General Act of Bhutan 2015*, the Attorney General hereby frames and issues the “*Standard Operating Procedure for Property and Judgment Enforcement Division (PJED) 2022*” as follows:

Title

1. This procedure is called the “Standard Operating Procedure (SOP)” for the Property and Judgment Enforcement Division (PJED), 2022.

Commencement

2. This Standard Operating Procedure comes into force from May 17, 2022.

Application

3. This SOP applies to:
 - (1) an Attorney of the Office of the Attorney General authorized by the Attorney General to undertake judgment enforcement on behalf of the victim, the Government/State and its agencies; and
 - (2) qualified *Jabmis*, whose services are availed by the Attorney General to perform specific legal assignments.

Purpose

4. The purpose of this SOP is to:
 - (1) streamline the enforcement process in the Office of the Attorney General (OAG);
 - (2) guide the prosecutor or an attorney under the OAG while being the officer of the legal system and legal

- representative of the state with special responsibility for the quality of justice;¹
- (3) outline systemic process of enforcement service;
 - (4) assist an attorney in PJED in following appropriate enforcement procedure based on the judgment of the court;
 - (5) ensure timely and effective enforcement of judgments rendered by Courts; and
 - (6) effectively implement the *Office of the Attorney General Act, 2015*.

Judgment receipt and registration process

5. The concerned prosecutor of the Prosecution and Litigation Division (PLD), Department of Justice, after receiving the final judgment, will submit the following document to PJED for enforcement:
 - (1) Duly filled Enforcement Form (*Annexure 1*);
 - (2) Judgment copy, which must include the front page (*Dong-shok*) reflecting defendant's details, operative part of the judgment; and
 - (3) Enforcement order from the court of jurisdiction or the appellate court if the case was decided by the appellate court.
6. The Chief Attorney of the PJED will receive the judgment copy referred for enforcement by the PLD, and shall maintain the record including all the relevant details of the enforcement referral.
7. The Chief attorney, after preliminary assessment of the judgment, will assign it to the concerned attorney of the PJED.²

¹CCPC 2001 s.101.

²The Dy. Attorney General of the Department of Justice or the Attorney General will designate the Chief attorney to perform this function through issuance of delegation of power and authority order.

8. The PJED will enforce the judgment of the cases referred by following agencies including but not limited to:
 - (1) Anti-Corruption Commission (“ACC”): Cases investigated by the ACC;
 - (2) Royal Bhutan Police (“RBP”): Criminal Cases of misdemeanor and above.
9. The government agencies may enforce referral under the advice of the Attorney General.
10. The Chief Attorney, after preliminary assessment of the judgment, will assign it to the concerned attorney within two working days based on the pre-assigned jurisdiction and on a seriatim basis.³
11. The Chief Attorney, upon receipt of a case, must review the case report and accordingly assign it to an attorney. The assignment will be carried out only after it is registered and recorded in the case registry.
12. The judgment, once registered, will be entered in the dashboard maintained by the case registrar which shall be visible to the Chief Attorney, the prosecutor of PLD, the concerned attorney enforcing the judgment and the case registrar (incorporated in the Enterprise Legal Management System).
13. Notwithstanding, the delegation of power to enforce cases by the Attorney General to the Deputy Attorney General or the Chief Attorney of the PJED, the judgment which has implications on the government policy, security, sovereignty and the national interest will be assigned by the Attorney General only.
14. The Chief Attorney may refer any other cases for enforcement to the Attorney General which in his/her opinion warrants such referral.

³The Dy. Attorney General of the Department of Justice or the Attorney General will designate the Chief attorney to perform this function through issuance of delegation of power and authority order.

Responsibility of the Deputy Attorney General, Department of Justice

15. The Deputy Attorney General should ensure effective coordination of the PJED with the PLD and all other relevant stakeholders.

Assignment of case for enforcement

16. The cases referred for enforcement will be assigned to the concerned attorney⁴ through the case registrar within five working days after receiving the judgment copy from the Prosecutor.
17. The judgment rendered in relation to RBP cases from Thimphu district courts, and such other courts where the number of cases is high, must be assigned to an attorney from the division, or a pool of concerned attorneys as may be applicable, based on seriatim basis. For judgments rendered by other courts, the Chief Attorney should assign the judgment to the concerned attorney as per their assigned jurisdiction.
18. The judgment rendered in relation to the ACC should be assigned to an attorney from the division, or a pool of concerned attorneys identified to enforce ACC cases, based on seriatim.
19. When the concerned attorney is not able to attend his or her scheduled hearing in his/her jurisdiction outside Thimphu, any other attorney may attend the hearing. The concerned attorney must inform the Chief Attorney on such an arrangement.

⁴ Concerned attorney means those attorneys who are identified to enforce the judgment and insofar as references as determined by the chief attorney based on the workload of every attorney.

20. When the newly assigned attorney completes the task, the information should be updated between the attorneys accordingly.
21. The Chief Attorney must serve as the lead counsel supported by other attorneys to enforce complex and sensitive cases.

Verification before commencing enforcement

22. The Chief Attorney, before commencing the enforcement, must ensure that the parties involved in relation to the case have not appealed by communicating with the following officials:
 - (1) Concerned prosecutor from PLD;
 - (2) Defendant or the defense counsel as the case maybe; and
 - (3) Concerned bench clerk of the court of jurisdiction.
23. The concerned Attorney, after receiving the judgment, must declare Conflict of Interest (CoI) in the prescribed format (*Annexure 2*) as soon as the case is being assigned.
24. In case of CoI, the Chief Attorney shall verify and re-assign the case to another attorney.
25. If the defendant who is liable to pay compensation or make restitution to the State is on bail, the prosecutor of the PLD must inform the concerned attorney under PJED.
26. If the prosecutor submits the judgment copy without filling up the enforcement form, the Chief Attorney of the PJED should ask the concerned prosecutor to fill up the form for enforcement.

Analysis of the judgment

27. The concerned attorney should first determine the nature of enforcement, and may cross-check with the concerned

prosecutor of the PLD before commencement of the enforcement.

28. Enforcement must be diligently undertaken.
29. If the concerned attorney, while reviewing the judgment, determines the requirement of any additional information, such requirement should be informed to the concerned prosecutor of the PLD.
30. Where an enforcement cannot be conclusively determined, it may be initiated based on the advice of the Chief Attorney.
31. The Chief Attorney must provide appropriate guidance and instruction to the concerned attorney.

Procedure to enforce the judgment

32. The concerned attorney should diligently review the judgment prior to enforcement due date, and must follow the procedures established below:
 - (1) The enforcement should be first commenced through due communication with the victim and the defendant, their lawyer or the legal representative.
 - (2) If the defendant claims to be destitute or serving a long-term sentence, or lacks ostensible means to pay such compensation or the damages to the victim, the concerned Attorney should look for alternative means including investigation of properties, both moveable and immoveable properties, to ensure speedy enforcement.
 - (3) Where there is a requirement to collect the seized property or the money from the ACC or RBP or any other referring agency, the concerned attorney must correspond with these agencies.
 - (4) When the property is to be investigated to enable restitution or compensation whichever, the concerned attorney should seek search, seizure and auction order

from the court of jurisdiction in accordance with section 99 of the *Civil and Criminal Procedure Code* (CCPC), 2001.

- (5) After obtaining the property investigation order, the concerned attorney should conduct property investigation within such reasonable time or within one month of the issuance of such order. After submitting such a report, the Chief Attorney in consultation with the Attorney General must instruct the concerned attorney to conduct the auction and enable compensation to the victim or restitution to the Government/State. The concerned attorney must uphold the provisions under section 99.6 of CCPC.
- (6) In the case of the restitution to the Government, the concerned attorney should seek further advice from the Chief Attorney, if the restitution could not be made as per defendant's undertaking.
- (7) The Chief Attorney must take such appropriate measures or direct the defendant to comply with the undertaking.
- (8) If the defendant further fails to adhere to the Chief Attorney's directives or any arrangements, the Chief Attorney in consultation with the Attorney General must appropriate measures in accordance with the judgment or in accordance with other provisions of law.
- (9) In cases which require payment of remaining compensation, the concerned attorney should consult the victim.
- (10) During property investigation which must be carried out within one month or within such reasonable time by the concerned attorney, if no property is found to be registered in the name of the defendant, the concerned attorney must inform such unavailability to the victim, or to the Chief Attorney in consultation with the Attorney General in case of restitution to the

- Government/State, and accordingly file the investigation report to the court of jurisdiction.
- (11) If the victim agrees to provide time extension at his/her will, the concerned attorney must provide time extension accordingly.
 - (12) When the defendant makes the payment of compensation or the damages to the victim involved in the case, the payment of money must be affected by depositing into the victim's account or by issuing non-revenue receipt (*Annexure 3*) whichever is applicable.
 - (13) When the restitution is to be made to the State, and upon agreement to extend time to make such repayment by the defendant through undertaking form (*Annexure 4*), such time extension not extending beyond a month or such reasonable time may be granted by the concerned attorney
 - (14) If the time extension has been granted by the concerned attorney in the past, further time extension may be granted only after consultation with the Chief Attorney.
 - (15) If the victim does not wish to extend the time, the concerned attorney must inform the court of jurisdiction
 - (16) If the defendant does not cooperate in making the payment of compensation to the victim or retribute money to state on time, the concerned attorney should request the competent court to issue an arrest warrant.
 - (17) When the defendant is not traceable or the concerned agency informs the OAG about the defendant's absence within the country or absconded or evading the arrest, such a written report must be solicited from the RBP or concerned agency by the concerned attorney.
 - (18) When the defendant, who is already serving life imprisonment, is decreed liable to retribute the money then the concerned attorney may explore alternatives in enabling restitution. If the defendant does not

restitute in such a case, the concerned attorney may seek value-based sentencing as per section 18 of the *Penal Code of Bhutan* (PCB) 2004 in consultation with the victim.

- (19) In case the defendant fails to make restitution to the State, the concerned attorney may seek value-based sentencing as per section 18 of the PCB in consultation with the Chief Attorney, Deputy Attorney General or the Attorney General.
- (20) Any documents or properties which have been seized and produced as evidence during the trial, or those properties seized thereunder will be governed by the “Seized Property Management Manual, 2022” and carry out the handing-taking of the seized property as per *Annexure 5*.
- (21) The seized property, whether seized through judicial order or voluntarily surrendered by the defendant to the OAG, must be auctioned as per the “Auction Guidelines, 2022”.
- (22) If the auction proceeds are insufficient to meet the compensation or restitution amount, the concerned attorney must seek an additional order from the court.
- (23) If the auction amount exceeds the compensation or restitution, such amount must be paid to the defendant.
- (24) Where a Thram has been adjudged to be canceled through the court order or judgment, and later discovers any structure being built in such premise, the OAG should seek appropriate court order based on precedents.
- (25) If the enforcement involves money, the deposit of the money should be carried out as per the “Guideline on the Operation and Management of Escrow Money by the OAG, 2022”.

Release of defendant after completion of the sentence term

33. The RBP must inform the Chief Attorney of the PJED in writing regarding release of the defendant at least one month before the release date.
34. This arrangement will come into force with immediate effect based on the mutual understanding which has been reached between RBP and the OAG since January 2017.

Additional duties of the concerned attorney

35. The concerned attorney should provide a bi-annual report to the Chief Attorney, who in turn must report to the Attorney General.
36. Notwithstanding above, the Chief Attorney must furnish such a report as and when the Attorney General demands.
37. The concerned Attorney must record any pending enforcement in the “memo” provided in (*Annexure 6*).
38. In case of any support required from the RBP, the concerned attorney should seek RBP’s support accordingly.
39. The concerned attorney should maintain the record of the case file, and submit for archiving for future reference once the enforcement is complete.
40. If the enforcement has been filed before the court, the concerned attorney must submit the closure report to the respective court accordingly.
41. If the defendant is acquitted under section 204 or when the case is deferred under section 156 of the CCPC, the employer of the defendant should be informed for reinstatement of his or her service.

42. The receipt of money from the defendant and payment of compensation to the victim should be facilitated by the concerned attorney in the best payment mode to ensure effective and timely payment.
43. When a property is being voluntarily surrendered by the defendant to enable restitution or compensation as the case may be, the consent form (*annexure 7*) must be used by the concerned attorney.

Handing over of the judgment by the Prosecutor

44. The concerned prosecutor should hand over the final judgment either in a form of electronic or printed as the case may be.
45. The concerned prosecutor, based on prescribed form, should hand over the judgment and other related documents, properties associated with such cases or any exhibits that have been used as evidence.
46. Where the concerned attorney under PJED requires the prosecutor's support from the PLD, he/she must ensure to provide necessary assistance required there under.

Revision

47. The Attorney General may revise this SOP from time to time.

Annexure 1
OAG-PJED-EF

Enforcement Form

Part I: To be filled in by concerned Prosecutor, PLD

Case Title:		
Case No:		
Defendant's details:	Name: CID/Passport/Permit No.: Contact no: Parents/Guardians name & contact no.:	
Victim's details:	Name: CID/Passport/Permit No.: Contact no:	
Name of PS/ACC/others		
Name of Court & Bench clerk	Name: Tel. no.:	
Follow up Date	Action taken Or To be taken	Remarks
Name and Signature of the Prosecutor		
<i>Part II: For PJED use only</i>		
Judgment date:		
Judgment copy received by JED (date):	Assigned on:	
Person assigned for enforcement in JED:	Case closed date:	

Annexure 2
OAG-PJED-CoI

Declaration of Conflict of Interest (CoI)

I,(name),
bearing CID. No.....and
serving as the
(Position Title) of the Office of the Attorney General hereby declares
that in enforcing judgment No.....dated.....

1. I do not have or anticipate any Conflict of Interest. I shall
notify the Agency concerned immediately in the event such
interests arise in the course of or before discharging my duty;
OR
2. I do have Conflict of Interest in view of the following
reason(s):
 - Family Member:.....
 - Close Relative:
 - Close Friend:.....
 - In-Laws:.....
 - Enemy:.....
 - Others:.....

I hereby confirm that the above information is true to the best of my
knowledge. In the event the above declaration is found to be
incorrect, I shall be liable for administrative/legal action.

Date:

Place:

Signature

Annexure 3
Non-Revenue Receipt

Office of the Attorney General
ROYAL GOVERNMENT OF BHUTAN

501
RECEIPT

OAG-JED-Receipt

I, Mr/Mrs.....
bearing CID/Passport No/Permit No.....
hereby received a sum of Nu. (in figure)
..... (in words) / Cheque No.
from Mr/Mrs.....
bearing CID/Passport No/Permit No.....
against judgement No. dated

Signature of the payer
Signature of the payee

Office of the Attorney General
ROYAL GOVERNMENT OF BHUTAN

501
RECEIPT

OAG-JED-Receipt

I, Mr/Mrs.....
bearing CID/Passport No/Permit No.....
hereby received a sum of Nu. (in figure)
..... (in words) / Cheque No.
from Mr/Mrs.....
bearing CID/Passport No/Permit No.....
against judgement No. dated

Signature of the payer
Signature of the payee

Note: This non-revenue receipt shall be issued by the concerned attorney

Annexure 4.a.
OAG-PJED-U
Date:

Undertaking

I, Mr/Mrs.....F/M.....D.O.B.....
CID/Passport/Permit No.....Phone
No.....Son/daughter of
village.....Gewog.....
Dzongkhag.....Occupation.....
would like to provide a statement regarding Judgment No.
.....dated.....in presence of
Attorney, OAG, Mr./Mrs.....and
my witness Mr./Mrs.....as follows:

The statement provided here-in-above had been read and explained
to me by Mr/Mrs.....bearing CID
No.....in the language I can understand, and the
facts contained therein are true and correct.

Name & signature	Name & Signature of witness
Place.....	CID No.....
Date.....	Tel. No.....

Annexure 4.b.

བཟླ་རྒྱུ་མཁས་ལེན།

སྤྱི་ཚེས་

ཁས་ལེན།

ད་ཅིས་རྫོང་ཁག་.....རྒྱུང་ཁག་.....

.....མེད་འོག་.....གཡུས་.....

.....མི་ཁུངས་ལག་ཁྱེར་ཨང/ལམ་ཡིག་ཨང་.....

.....འཆང་མི་དོ་མིང་.....ནས་འབྱུན་ཚེད་ཨང་.....

.....སྤྱི་ཚེས་.....ཅན་མའི་དགོངས་.....

དོན་ལྟར་ སོར་རྒྱུད་རྒྱུད་འཐུས་སྤྱོད་དགོ་པའི་ ངག་བརྗོད་ལེན་མི་རྩོད་དཔོན་དོ་མིང་.....

.....དང་དེ་གི་དཔང་པོ་དོ་མིང་.....དོ་འཛུམས་.....

ཐོག་ལས་ ཅང་བདེན་སྒོ་ལས་ ངག་བརྗོད་བྱུང་ བ་ག་ཤམ་གསལ་ལྟར།

གོང་འཁོད་པུ་བརྗོད་དེ་.....གྲུས་རང་གིས་ཉ་གོ་ཚུགས་པའི་ཁ་སྐད་ཐོག་ལུ་

སྐད་འབྱུར་འབད་ཡོད་པ་ལས་ ང་གིས་ ངག་བརྗོད་འདི་ནང་འཁོད་མི་ག་ར་ དེ་བདེན་ཡིན་མ་ལས་

ཁྱིན་ཆད་གོང་ལུ་འཁོད་མི་ལྟར་ མ་གནས་པའི་རིམ་པ་འེ་འཐོན་ཚེ་ དཔལ་ལྷན་འབྱུག་པའི་ཁྲིམས་

ལྷགས་ལྟར་ ཉེས་ཁྲིམས་ཚུ་བྱུག་ཞུ་ནི་ཡིན་པའི་ཁས་ལེན་བྱུང་པ་ཡིན། ཞེས་གནམ་ལོ་.....

.....ཟླ་.....པའི་ཚེས་.....ལུ་འམ་ སྤྱི་ཚེས་.....ལུ་

བྱུག་བཅས་

བྱུལ།

དཔང་པོ་འི་མིང་དང་ལག་ཁྲིས།

མི་ཁུངས་ལག་ཁྱེར་ཨང་.....

འབྱུང་འཐོན་ཨང་

Annexure 5
OAG-PJED-HTN
Handing-Taking Note

I, Mr./Mrs.....bearing
CID/Passport/Permit No.....currently working
as the (title) of the(agency’s name)
received the following seized property (-ies) from
Mr./Mrs.....
Workings as.....(title).....of the
.....(agency’s name) on.....(DD/MM/YY) as
part of enforcement of judgment No.....
.....dated.....on.....

Handed over by,

-sd-

Taken over by,

-sd-

Annexure 6
OAG-PJED-Memo

Memorandum(For Pending Enforcement)

Title of the Case	Criminal attempt to rape (OAG vs Mr. A & others)
Judgment No. & Date	Cite the judgment number and the date
Brief facts:	Charges & conviction, if any
Nature of enforcement	Eg. Payment of restitution....
What needs to be enforced?	Here, the concerned attorney can mention what was done. Eg. We can mention that we asked for property investigation, seized the property, etc.

-s/d-
(Name of the Attorney)

Annexure 7
OAG-PJED-CF

Consent Form to Surrender the Property

I, Mr/Mrs.....bearing
CID/Passport/Permit No.....in
relation to enforcement of judgment No.....

At my own will surrenders the property detailed below to enable
compensation to the victim/restitution to the Royal Government

- i. Name of the property:.....
- ii. Total No./Acre/quantity:.....
- iii. Location of the property:.....
- iv. Property in whose name it's registered:.....
- v. CID No. of the property's owner:.....
- vi. Others.....
.....

Since the aforementioned property has been voluntarily surrendered
by the undersigned, I have no objection to the OAG to dispose of it
as per the procedures established thereunder.

Property surrendered by,

Taken over for disposal by,

-sd-

-sd-



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