

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 27.

Prime Minister.

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), there was no gazetted indication where the administration of this Chapter was vested. It would seem logical to assume that it was vested in the Department of the Prime Minister.

This Chapter does not refer to "the Minister", "the Departmental Head" or "the Department".

TABLE OF CONTENTS.

	<i>Page.</i>
<i>Prime Minister Act</i>	3
Regulations	—
Subsidiary Legislation	—
Appendix— Source of Act.	

()

()

()

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 27.

Prime Minister Act.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 "Acting Prime Minister"
 "the Deputy Prime Minister".
2. Deputy Prime Minister.
3. Acting Prime Minister.
4. Allowances payable to Acting Prime Minister.
5. Suspension from office of the Prime Minister.

)

)

)

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 27.

Prime Minister Act.

Being an Act—

- (a) to implement Section 143 (*Acting Prime Minister*) of the Constitution by providing for—
 - (i) a Deputy Prime Minister; and
 - (ii) the Deputy Prime Minister or another Minister to be the Acting Prime Minister in certain circumstances; and
- (b) to provide for the suspension from office of the Prime Minister pending an investigation for the purposes of Section 142(5)(c) (*the Prime Minister*) of the Constitution¹.

1. Interpretation.

In this Act, unless the contrary intention appears—

“Acting Prime Minister” means an Acting Prime Minister appointed by Section 3(1) or under Section 3(2);

“the Deputy Prime Minister” means the Deputy Prime Minister appointed under Section 2.

2. Deputy Prime Minister.

- (1) An office of Deputy Prime Minister is hereby established.
- (2) The Deputy Prime Minister shall be appointed by the Head of State, acting with, and in accordance with, the advice of the Prime Minister.
- (3) The Deputy Prime Minister—
 - (a) shall be dismissed from office by the Head of State if the Prime Minister recommends his dismissal to the Head of State; and
 - (b) ceases to hold office if he ceases to be a Minister.
- (4) The Deputy Prime Minister may resign from office by written notice to the Head of State.

3. Acting Prime Minister.

- (1) Subject to Subsection (2), when—
 - (a) there is a vacancy in the office of Prime Minister; or
 - (b) the Prime Minister is suspended from office; or
 - (c) the Prime Minister is—
 - (i) absent from the country; or
 - (ii) out of speedy and effective communication; or

¹ The original Act was made by the Constituent Assembly as a Provisional Act of the Parliament. See Constitution, Section 266(2).

(iii) otherwise unable or not readily available to perform the duties of his office,

the Deputy Prime Minister is the Acting Prime Minister.

(2) At any time when any of the circumstances referred to in Subsection (1)(a), (b) or (c) occur and—

- (a) there is a vacancy in the office of Deputy Prime Minister; or
- (b) the Deputy Prime Minister is suspended from office; or
- (c) the Deputy Prime Minister is—
 - (i) absent from the country; or
 - (ii) out of speedy and effective communication; or
 - (iii) otherwise unable or not readily available to perform the duties of Acting Prime Minister,

the Head of State, acting on advice, shall appoint a Minister to be the Acting Prime Minister for the period during which that circumstance continues to exist.

4. Allowances payable to Acting Prime Minister.

The allowances payable to the Deputy Prime Minister or a Minister while he is the Acting Prime Minister are as determined from time to time by the Parliamentary Salaries Tribunal.

5. Suspension from office of the Prime Minister¹.

(1) The Head of State, acting on advice, may, on a matter relating to the health of the Prime Minister, request the National Authority responsible for the registration and licensing of medical practitioners to appoint two medical practitioners to examine the Prime Minister and to provide him with full details of the examination, together with their joint certification that the Prime Minister—

- (a) is unfit or unable, by reason of physical or mental incapacity, to carry out the duties of his office, and as to how long they consider that the unfitness or inability will continue to exist; or
- (b) is not suffering from any physical or mental incapacity; or
- (c) although suffering from physical or mental incapacity, is still able to carry out the duties of his office; or
- (d) refuses to be examined.

(2) The Head of State, acting on advice, may, where he has called for a report under Subsection (1), suspend the Prime Minister from office.

(3) The medical practitioners referred to in Subsection (1) shall report to the Head of State as soon as practicable, but in any event no later than 28 days, after the date of their appointment.

(4) If the Prime Minister refuses to be examined by the medical practitioners referred to in Subsection (1), he is guilty of misconduct in office within the meaning of Division III.2. (*leadership code*) of the Constitution².

¹ Presumably, Section 5 is intended to provide the machinery for a report for the purposes of Constitution, Section 142(5)(c), although the title of the Act does not make this clear.

² But see Constitution, Section 28(1)(d) and the definition "misconduct in office" in Constitution Section Sch. 1.2(1). The validity of this provision is doubtful.

(5) Where the medical practitioners referred to in Subsection (1) certify that the Prime Minister—

- (a) is not suffering from any physical or mental incapacity; or
- (b) although suffering from mental or physical incapacity is still able to carry out his duties,

the Head of State¹ shall immediately remove any suspension.

(6) Where the medical practitioners referred to in Subsection (1) certify that—

- (a) the Prime Minister is unfit or unable by reason of physical or mental incapacity, to carry out the duties of his office; and
- (b) the unfitness or inability will, in their opinion, continue to exist for a period of more than three months from the date on which he was examined by them,

the Head of State¹ shall forward the report of the medical practitioners, together with their certification, to the Speaker for presentation to the Parliament, and the Prime Minister is suspended from office until the Parliament has dealt with the matter.

(7) Where the medical practitioners referred to in Subsection (1) certify that—

- (a) the Prime Minister is unfit or unable, by reason of physical or mental incapacity, to carry out the duties of his office; and
- (b) the unfitness or inability will, in their opinion, last for not more than three months from the date on which he was examined by them,

the Head of State¹ shall direct the medical practitioners to conduct another examination of the Prime Minister at the end of the period for which the unfitness or inability is expected to last, and the Prime Minister is suspended from office until he is certified to be fit to carry out his duties.

(8) Where, on any second or subsequent examination, the medical practitioners referred to in Subsection (1) certify that the unfitness or inability of the Prime Minister will, in their opinion, continue to exist for a period of more than three months measured from the date on which he was first examined by them, the Head of State¹ shall forward the report of the medical practitioners together with their certification to the Speaker for presentation to the Parliament and the Prime Minister is suspended from office until the Parliament has dealt with the matter.

(9) Where the Speaker has received a report under Subsection (6) or (8), he shall present it to the Parliament on the first sitting day of the Parliament after he receives it.

(10) If the Parliament is not meeting when the Speaker receives the report and is not due to meet for more than 14 days after that time, a meeting shall be called as soon as practicable.

(11) Where a report is presented to the Parliament under Subsection (6) or (8), the Parliament may request² the Head of State to remove the Prime Minister from office.

¹ But see Constitution, Section 86.

² Compare Constitution, Section 142(5)(c).

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 27.

Prime Minister.

APPENDIX.

SOURCE OF PRIME MINISTER ACT.

Part A.—Previous Legislation.

Prime Minister (Constitutional Provisions) Act 1975 (No. 102 of 1975).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹
1	1
2	2
3	3
4	4
5	5

¹ Unless otherwise indicated, references are to the Act set out in Part A.

