

Chapter 35.
Ministers' (Delegation) Act 1975.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 35.

Ministers' (Delegation) Act 1975.

ARRANGEMENT OF SECTIONS.

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4. Common law system of exercising Ministers' powers.
5. Delegation of non-statutory functions.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Ministers' (Delegation) Act 1975,

¹Being an Act—

- (a) to enable regulations to be made empowering Ministers to delegate their statutory powers and functions; and
- (b) to make it clear that where a Minister is so empowered in relation to a power or function the common law system of exercising Ministers' powers and functions is excluded in relation to the exercise or performance of the power or function by or on behalf of that Minister; and
- (c) to empower Ministers to delegate their non-statutory functions.

1. INTERPRETATION.

In this Act, “**regulation**” means a regulation made under Section 2.

2. REGULATIONS TO EMPOWER DELEGATION.

(1) The Head of State, acting on advice, may make regulations to empower a Minister to delegate by instrument all or any of his powers and functions under any Act.

(2) A regulation may provide—

- (a) for the effect of a delegation or subdelegation; or
- (b) for further delegation by a person who is a delegate or subdelegate; or
- (c) that a person shall be deemed to be a delegate of a Minister in relation to any matter or class of matters subject to such conditions, restrictions and exceptions as are specified in the regulation; or

¹ Long title amended by No. 28 of 1978, s2.

- (d) that, subject to the regulation, an instrument of delegation or class of instruments of delegation made by a Minister at any time (whether made under this Act or any other law) continues in operation as if made under the regulation; or
- (e) for the delegation by Ministers of all their powers and functions; or
- (f) for all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(3) A regulation may empower a Minister to delegate a power or function under any Act by reference to a matter or class of matters, without specifying the particular law that confers the power or function.

3. SAVING OF DELEGATIONS ON AMENDMENT, ETC., OF REGULATIONS.

Unless the contrary is provided in a regulation, an instrument of delegation made or continued in operation under a regulation that is amended or replaced by another regulation shall be deemed to continue in operation as if it has been made under the regulation as amended, or under the substituted regulation, as the case may be.

4. COMMON LAW SYSTEM OF EXERCISING MINISTERS' POWERS.

(1) Subject to Section 153(4) (*validity of executive acts*) of the *Constitution*, and to Subsection (2), where a regulation empowers a Minister to delegate a power or function no person other than the Minister in person, or a delegate (if any) or a subdelegate (if any) under the power of delegation, may exercise or perform the power or function on behalf of the Minister.

(2) Where a power or function is administered by two or more Ministers, a regulation conferring a power of delegation in relation to one or more of those Ministers does not affect the exercise or performance of the power or function by or on behalf of the other Minister or Ministers.

5. DELEGATION OF NON-STATUTORY FUNCTIONS.

²(1) In addition to any power conferred on him by or under this Act, a Minister may, by instrument, delegate to a person any of his functions that are not functions conferred on the Minister under or by virtue of a law.

Office of Legislative Counsel, PNG

² Section 5 added by No. 28 of 1978, s1.