

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 35.

Ministers (Delegation).

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Prime Minister at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

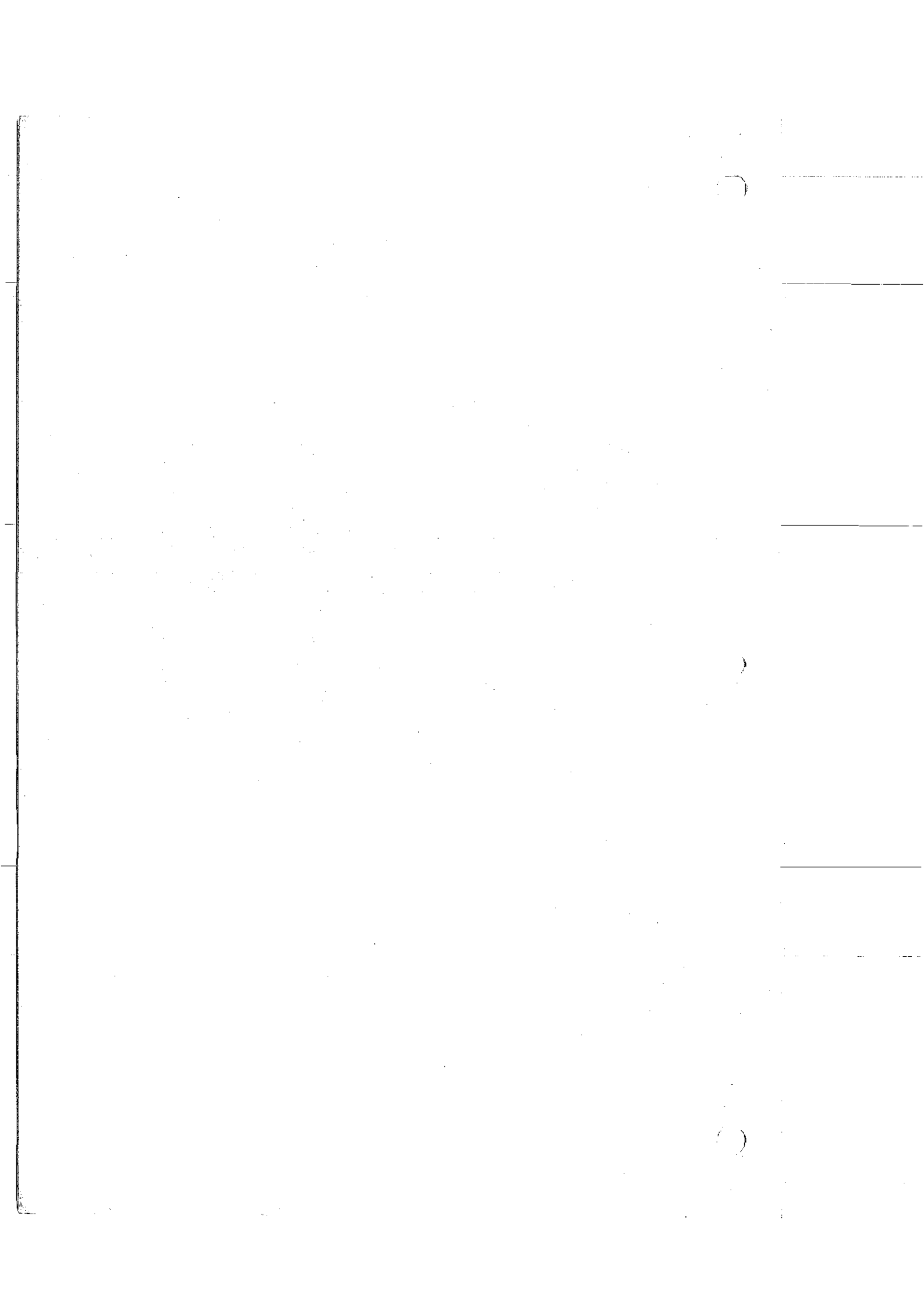
References in, or in relation to, this Chapter to—

“the Departmental Head”—should be read as references to the Secretary to the Department of the Prime Minister and National Executive Council;

“the Department”—should be read as references to the Department of the Prime Minister and National Executive Council.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 35.

Ministers' (Delegation) Act.

ARRANGEMENT OF SECTIONS.

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"regulation".
2. Regulations to empower delegation.
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4. Common law system of exercising Ministers' powers.
5. Delegation of non-statutory functions.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 35.

Ministers' (Delegation) Act.

Being 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.

(Amended by No. 28 of 1978, s. 2.)

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
- (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.

(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.

(Added by No. 28 of 1978, S. 1.)

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CHAPTER NO. 35.

Ministers (Delegation) Regulation.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
"designated".
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Ministers' (Delegation)

- 39. Public Finances (Control and Audit) Act.
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- 44. Stamp Duties Act.
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- 46. Teaching Service Act.
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- 48. Tourism Act.
- 49. Trade Licensing Act.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 35.

Ministers (Delegation) Regulation.

MADE under the *Ministers (Delegation) Act*.

1. Interpretation.

In this Regulation "designated" in relation to any act, matter or thing, means designated by the Head of State, acting on advice, by notice in the National Gazette.

2. Agreements.

(1) A Minister may, by writing under his hand, delegate to any person all or any of his powers and functions under any Act or subordinate enactment to enter into and execute any contract or agreement so that the delegated powers or functions may be had and exercised by the delegate in relation to an agreement or contract or any class of agreement or contract.

(2) Subject to any other law—

(a) a person appointed under Section 24 of the *Public Finances (Control and Audit) Act* to approve requisitions for the expenditure of moneys shall be deemed to be a delegate under Subsection (1) of the Minister responsible for financial matters in respect of any contract or agreement the consideration for which does not exceed the maximum amount in respect of which the person may approve requisitions; and

(b) an officer of the Public Service appointed in accordance with the financial instructions issued from time to time under Section 22 of the *Public Finances (Control and Audit) Regulation* to purchase goods and services for the purposes of a department shall be deemed to be a delegate under Subsection (1) of the Minister responsible for financial matters in respect of any contract or agreement the consideration for which does not exceed the amount of an approved requisition issued for the purchase of those goods and services.

(3) In Subsection (2)(b) "an approved requisition" means a requisition for the expenditure of moneys which is approved by a person appointed under Section 24 of the *Public Finances (Control and Audit) Act* within the limit of his authority.

3. Animals Act.

(1) The Minister may, by writing under his hand, delegate to a person (in this section called "the Delegate") all or any of his powers and functions under Part V. of the *Animals Act*.

(2) Where the Minister makes a delegation under Subsection (1), he may, in the same or another instrument, also delegate to the Delegate the power, by instrument, to further delegate all or any part of the delegated powers or functions to a person or member of a class of persons (in this section called "the Subdelegate") specified in the Minister's instrument.

(3) Where the Delegate makes a further delegation pursuant to Subsection (2), he may, in the same or another instrument, but subject to any restrictions placed on him by the Minister, also delegate to the Subdelegate the powers, by instrument, to further delegate all

or any part of the delegated powers or functions to a person or member of a class of persons specified in the Delegate's instrument.

4. Apprenticeship Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Apprenticeship Act*.

5. Artificial Breeding of Stock Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 16 of the *Artificial Breeding of Stock Act 1970*¹.

6. Banking Corporation Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 12 of the *Banking Corporation Act*.

7. Bureau of Industrial Organizations Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Bureau of Industrial Organizations Act*.

8. Central Banking Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 13 of the *Central Banking Act*.

9. Civil Aviation Act.

(1) In this section, except where the contrary intention appears—

“Civil Aviation Orders” has the same meaning that it has in the *Civil Aviation Act*;
“delegation” includes subdelegation.

(2) The Minister may, by writing under his hand, delegate to any person all or any of his powers and functions under one or more of the following :—

- (a) the *Civil Aviation Act*; or
- (b) the regulations made under that Act; or
- (c) the Civil Aviation Orders made under that Act.

(3) Where the Minister delegates any power or function under Subsection (2) to any person, he may, in the same or another instrument of delegation, also delegate to that person the power to further delegate, by writing under his hand, the power or function to a person or a member of a class of persons specified in the instrument.

10. Coffee Industry Act.

(1) The Prime Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 4(5) and 17(3) of the *Coffee Industry Act*.

(2) The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 42 and 49 of the *Coffee Industry Act*.

11. Cultural Development Act.

(1) The Prime Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 4(5), 23(4), 42(3), 49(2) and 51 of the *Cultural Development Act*.

¹This Act was not in force at the time of this up-dating.

(2) The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Cultural Development Act*.

12. Defence Act.

(1) Expressions in this section that are defined in the *Defence Act* have the same respective meanings that they have in that Act.

(2) The Minister may, by writing under his hand, delegate to the Secretary or to the Commander of the Defence Force, or to both jointly, or to any other designated person or class of persons, all or any of his powers and functions under one or more of the following—

- (a) the *Defence Act*; or
- (b) the regulations made under that Act; or
- (c) the Code of Military Discipline; or
- (d) the Defence Council Orders.

(3) A delegation under Subsection (2) may provide for further delegations or subdelegations to any designated person or class of persons.

13. Defence (Visiting Forces) Act.

The Minister responsible for defence matters may, by writing under his hand, delegate all or any of his powers and functions under one or both of the following :—

- (a) the *Defence (Visiting Forces) Act*; or
- (b) the regulations made under that Act.

14. Development Bank Act.

The Prime Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 13 and 16(2) of the *Development Bank Act*.

15. Education matters.

(1) Expressions in this section that are defined in the *Education Act* have the same respective meanings that they have in that Act.

(2) The Minister responsible for education matters may, by instrument in the Education Gazette, delegate all or any of his powers and functions relating to education to any one or more of the following :—

- (a) the National Education Board; or
- (b) the Secretary for Education; or
- (c) the Teaching Service Commissioner; or
- (d) a District Education Board, in relation to the whole province for which the Board is responsible or the part of the province, specified in the instrument of delegation; or
- (e) a District Superintendent of Schools; or
- (f) a Board of Governors, in relation to the school for which the Board of Governors is the controlling authority; or
- (g) a Governing Council, in relation to the college for which the Council is established; or
- (h) to any other person (not being a person to whom a delegation may be made under any other provision of this section).

(3) The Minister may, by instrument in the Education Gazette, delegate, subject to Subsections (4) and (5), to a Local Government Council, all or any of his powers and functions relating to education, in relation to the whole Council area or the part of the Council area, or to the schools, specified in the instrument of delegation.

(4) A delegation may only be made to a Local Government Council with the agreement of the Council.

(5) Subsection (3) does not allow the delegation to a Local Government Council (in its capacity as such and not in any capacity which it may have as an education agency in its own right) of powers or functions in relation to the appointment, promotion, transfer, discipline, suspension, dismissal or conditions of service of teachers in the Council area, or of individual teachers in the Teaching Service.

(6) A delegation may be revoked, at will, by the Minister.

16. Electricity Commission Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Electricity Commission Act*, other than the powers and functions under Section 17(2) and the Schedule of that Act.

17. Electricity Supply (Government Power Stations) Act.

The Minister may by writing under his hand, delegate to a person all or any of his powers and functions under one or both of the following :—

- (a) the *Electricity Supply (Government Power Stations) Act*; or
- (b) the regulations made under that Act.

18. Explosives Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Explosives Act*.

19. Forest Industries Council Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 6(7) and 11(6) of the *Forest Industries Council Act*.

20. Industrial Safety, Health and Welfare Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Industrial Safety, Health and Welfare Act*.

21. Inflammable Liquid Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Inflammable Liquid Act*.

22. Interpretation Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 8 of the *Interpretation Act*.

23. Investment Corporation Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 13 and 16(2) of the *Investment Corporation Act*.

24. Koki Market-place Trust Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Koki Market-place Trust Act*.

25. Land matters.

The Minister responsible for land matters may, by writing under his hand, delegate to a person all or any of his powers and functions relating to land.

26. Licences Act (TNG).

(1) The Minister may, by writing under his hand, delegate to a person (in this section called "the Delegate") all or any of his powers and functions under the *Licences Act (TNG)*.

(2) Where the Minister makes a delegation under Subsection (1), he may, in the same or another instrument, also delegate to the Delegate the power, by instrument, to further delegate all or any part of the delegated powers or functions to a person or member of a class of persons (in this section called "the Subdelegate") specified in the Minister's instrument.

(3) Where the Delegate makes a further delegation pursuant to Subsection (2), he may, in the same or another instrument, but subject to any restrictions placed on him by the Minister, also delegate to the Subdelegate the power, by instrument, to further delegate all or any part of the delegated powers or functions to a person or member of a class of persons specified in the Delegate's instrument.

27. Liquor (Licensing) Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 6(1) and 7 of the *Liquor (Licensing) Act*.

28. Local Government Act.

(1) The Minister may, by writing under his hand, delegate to a person (in this section called "the Delegate") all or any of his powers and functions under one or more of the following:—

- (a) the *Local Government Act*; or
- (b) the *Local Government (Council Staff) Regulation*; or
- (c) the *Local Government (Electoral Provisions) Regulation*; or
- (d) the *Local Government Regulation*.

(2) Where the Minister makes a delegation under Subsection (1), he may, in the same or another instrument, also delegate to the Delegate the power, by instrument, to further delegate all or any part of the delegated powers or functions to a person or member of a class of persons (in this section called "the Subdelegate") specified in the Minister's instrument.

(3) Where the Delegate makes a further delegation pursuant to Subsection (2), he may, in the same or another instrument, but subject to any restrictions placed on him by the Minister, also delegate to the Subdelegate the power, by instrument, to further delegate all or any part of the delegated powers or functions to a person or member of a class of persons specified in the Delegate's instrument.

29. Local Government (Consolidation of Proclamations) Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Local Government (Consolidation of Proclamations) Act*.

30. Local Government Service Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Local Government Service Act*.

31. Metric Conversion Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Metric Conversion Act*.

32. National Airline Commission Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 6 and 19(2) of the *National Airline Commission Act*.

33. National Cultural Centre Trust Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 17(2) and the Schedule of the *National Cultural Centre Trust Act*.

34. National Investment and Development Act.

The Minister may by writing under his hand, delegate to a person all or any of his powers and functions under the *National Investment and Development Act*.

35. Native Employment Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Native Employment Act* 1958 (Adopted).

36. Packaging Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Packaging Act*.

37. Post and Telegraph (Finance) Act.

(1) In this section "the Director" has the same meaning that it has in the *Post and Telegraph (Finance) Act*.

(2) The Minister may, by writing under his hand, delegate to the Director all or any of his powers and functions under one or both of the following :—

(a) the *Post and Telegraph (Finance) Act*; or

(b) any directions given under that Act.

38. Prices Regulation Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 11(2) of the *Prices Regulation Act*.

39. Public Finances (Control and Audit) Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 78 and 79 of the *Public Finances (Control and Audit) Act*.

40. Public Museums and Art Galleries Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Public Museums and Art Galleries Act* other than the powers and functions under Sections 21(2) and 22(1) of that Act.

41. Public Officers Superannuation Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 8 of the *Public Officers Superannuation Act*.

42. Public Service Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under one or both of the following :—

- (a) the *Public Service Act*; or
- (b) the regulations made under that Act.

42A. Radiocommunications Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Radiocommunications Act*.
(Added by No. 29 of 1979.)

43. Retirement Benefits Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Retirement Benefits Act*.

44. Stamp Duties Act.

(1) In this section "local assessor" means a person appointed to be a local assessor under Section 3 of the *Stamp Duties Act*.

(2) The Minister may, by instrument in the National Gazette, delegate to a local assessor all or any of his powers and functions under the *Stamp Duties Act*.

45. Survey Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 11 of the *Survey Act*.

46. Teaching Service Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 147(2) of the *Teaching Service Act*.

47. Teaching Service Conciliation and Arbitration Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 9(3)(b) of the *Teaching Service Conciliation and Arbitration Act*.

48. Tourism Act.

The Minister may, by writing under his hand, delegate to any person all or any of his powers and functions under one or both of the following :—

- (a) the *Tourism Act*; or
- (b) the regulations made under that Act.

49. Trade Licensing Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Trade Licensing Act*.

50. Trading Act.

(1) The Minister may, by writing under his hand, delegate to a person (in this section called "the Delegate") all or any of his powers and functions under the *Trading Act*.

(2) Where the Minister makes a delegation under Subsection (1), he may, in the same or another instrument, also delegate to the Delegate the power, by instrument, to further delegate all or any part of the delegated powers or functions to a person or member of a class of persons (in this section called "the Subdelegate") specified in the Minister's instrument.

(3) Where the Delegate makes a further delegation pursuant to Subsection (2), he may, in the same or another instrument, but subject to any restrictions placed on him by the Minister, also delegate to the Subdelegate the power, by instrument, to further delegate all or any part of the delegated powers or functions to a person or member of a class of persons specified in the Delegate's instrument.

51. Transactions with Natives Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Transactions with Natives Act 1958* (Adopted).

52. Valuation Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Section 13 of the *Valuation Act*.

53. Village Courts Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under Sections 2, 3, 5, 7(2), 8, 9, 19, 36, 59(3), 69, 70 and 76 of the *Village Courts Act*.

(Amended by No. 12 of 1984.)

54. Water Supply Act.

The Minister may, by writing under his hand, delegate all or any of his powers and functions under the *Water Supply Act, 1941 (P)* in relation to the whole of that part of the country formerly known as the Territory of Papua or the part of that area specified in the instrument of delegation.

55. Weights and Measures Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Weights and Measures Act*.

56. Workers' Compensation Act.

The Minister may, by writing under his hand, delegate to a person all or any of his powers and functions under the *Worker's Compensation Act*.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 35.

Ministers (Delegation).

APPENDIX 1.

SOURCE OF THE MINISTERS (DELEGATION) ACT.

Part A.—Previous Legislation.

Ministers' (Delegation) Act 1975 (No. 90 of 1975)

as amended by—

Ministers' (Delegation) (Amendment) Act 1978 (No. 28 of 1978).

Part B.—Cross References.

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

APPENDIX 2.

SOURCE OF THE MINISTERS (DELEGATION) REGULATION.

Previous Legislation.

Ministers (Delegation) Regulation

as amended by—

Ministers' (Delegation) (Amendment) Regulation 1984 (Statutory Instrument No. 12 of 1984)

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

²Section 5 added by 28 of 1978 after expiration of original Section 5 and Schedule.

