

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 316.

Native Regulation (Papua).

GENERAL ANNOTATION.

OMISSION OF ACT.

In this case it should be noted that the Chapter comprises only the Regulation, the *Native Regulation Act 1908-1963* of the Territory of Papua (Adopted), under which it was made, being omitted from the Revised Edition by virtue of Section 5(1) of the *Revision of the Laws Act 1973* (Adopted).

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), while the administration of this Chapter was not vested specifically in any Minister it appears from the history of the legislation and the determination of responsibilities of Departments that it came within the responsibilities of the Prime Minister.

Accordingly, unless some other intention is clearly indicated, by note or in the text, references in or in relation to this Chapter to—

“the Minister”—should be read as references to the Prime Minister;

“the Departmental Head”—should be read as references to the Secretary to the Prime Minister;¹

“the Department”—should be read as references to the Department of the Prime Minister.²

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¹ Previously the Secretary, Department of the Prime Minister and Development Administration.

² Previously the Department of the Prime Minister and Development Administration.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 316.

Native Regulation (Papua).

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 316.

*Native Regulation (Papua)*¹.

MADE under the *Native Regulation Act*, 1908 of the former Territory of Papua (Adopted)².

PART I.—PRELIMINARY.

1. Constitutional limitation on application of Regulation.

By virtue of Section Sch. 2.6.(2) (*adoption of pre-Independence laws*) of the Constitution, this Regulation applies in relation to the area that, immediately before Independence Day, formed the Territory of Papua.

2. Interpretation.

In this Regulation—

“Distributor” means a Distributer appointed under Section 8;

“person who is subject to this Regulation” means an aboriginal native of—

- (a) the Island of New Guinea; or
- (b) Australia; or
- (c) any island adjacent to the Island of New Guinea or Australia,

and includes—

- (d) an aboriginal native of—
 - (i) any island in the Pacific Ocean; or
 - (ii) any of the East Indian Islands; or
 - (iii) Malaysia,

who, while he is in the area to which this Regulation applies, lives after the manner in which aboriginal natives of the Island of New Guinea or the islands adjacent to the Island of New Guinea live; and

- (e) a person who—
 - (i) is wholly or partly descended from an aboriginal native referred to in Paragraph (a), (b), (c) or (d); and
 - (ii) while he is in the area to which this Regulation applies lives after the manner in which aboriginal natives of the Island of New Guinea or the islands adjacent to the Island of New Guinea live.

3. Indemnity.

No civil action or proceeding lies against any person permanently or temporarily employed to carry out this Regulation for anything done by him honestly and in good faith and in the belief that in doing the thing he was acting lawfully under the powers conferred

¹ This Regulation is included in the Revised Edition as it was amended by Statutory Instrument No. 63 of 1975, which was notified in the National Gazette No. G21 of 4 March, 1976. That Statutory Instrument specifically repealed Sections 75, 75A, 81, 91, 96, 100, 101A, 101B, 101C, 112, 115, 121, 130 and 155 of the original Regulations.

² The Act is not included in this Revised Edition.

on him by this Regulation, even though no provision of this Regulation authorizes or justifies the doing of the thing.

PART II.—SUCCESSION TO PROPERTY.

Division 1.—Preliminary.

4. Effect of Part II.

This Part has effect notwithstanding anything in the *Wills, Probate and Administration Act*.

Division 2.—Devolution of Property.

5. Disposal by will of interests in customary land.

A person who is subject to this Regulation cannot dispose by will of any interest possessed by him in customary land.

6. Devolution on intestacy.

In the absence of a will, the property of a deceased person who is subject to this Regulation descends to those persons who, in accordance with custom, are entitled to it.

7. Undistributed moneys.

If after the expiration of six years from the death of a person who is subject to this Regulation any money remains to the credit of his estate and no person has apparently a right to the money, it shall be paid to the Consolidated Revenue Fund.

Division 3.—Administration of Intestate Property.

8. Distributors.

(1) In this section, "area" means the area in and for which a Local Court is established.

(2) The Head of State, acting on advice, may appoint persons to be Distributors, to administer within specified areas the effects of deceased persons who are subject to this Regulation who have died intestate.

9. Powers of Distributors in relation to land.

A Distributor as such has no power to deal with land or anything growing on or affixed to land.

10. Administration of effects.

A Distributor may take possession of and administer any effects of a deceased person who is subject to this Regulation and who has died intestate that were in the area for which the Distributor was appointed at the time when the person died, but need not do so if he thinks that there is no necessity for him to do so.

11. Duties of distributors on distribution.

(1) Where a Distributor administers any effects, he shall—

(a) collect all of them and, if necessary for any purpose, sell or barter some or all of them; and

(b) find out as well as he can the debts of the deceased and pay them out of the estate.

(2) If the debts exceed the value of the effects, the Distributor shall—

- (a) pay all the creditors, as far as the effects will go, in proportion to the amount of their respective debts; and
- (b) after he has paid all the debts that he knows of, distribute any effects that are left over amongst the persons who under Section 6 are entitled to them.

12. Unclaimed effects.

(1) If any effects that are not money remain in the hands of a Distributor because there is no person apparently entitled to them, he shall—

- (a) sell them for money; or
- (b) if they are not marketable, obtain directions from the Head of State, acting on advice, as to what to do with them.

(2) Subject to this Regulation, the effects referred to in Subsection (1), or the proceeds of them, remain to the credit of the estate.

13. Delivery of effects for safe custody.

(1) If a Distributor is directed by the Head of State, acting on advice, to do so, he shall deliver any effects of a deceased person who is subject to this Regulation that are under his control as a Distributor to a person named by the Head of State, acting on advice.

(2) Subsection (1) is intended to ensure the safe custody of the effects and is not intended to confer on the Head of State any power to administer the effects.

14. Payment for services.

(1) A Distributor shall not deduct anything out of any effects that he is administering by way of remuneration for his own services or those of any person employed by the State.

(2) If the Distributor is obliged to employ the services of private persons, he may pay for their services out of the effects.

15. Disputes.

(1) Conflicting claims to effects shall not be decided by a Distributor as such, but shall be decided by a Local Court as civil claims.

(2) If the Distributor is a Magistrate of a Local Court, he may try any such claim in his capacity as such notwithstanding that he is administering the effects that form the subject matter of the claim.

16. Distributors' reports.

As soon as possible after 30 June and 31 December in each year, a Distributer shall send to the Head of State a half-yearly report, in Form 1, on the estates that he has been administering.

PART III.—OFFENCES.

17. Adultery.

(1) A married person who is subject to this Regulation who has sexual intercourse with another such person of the opposite sex (other than his or her wife or husband) is guilty of an offence.

Penalty: A fine not exceeding K6.00 or imprisonment for a term not exceeding six months, or both.

(2) A person who is subject to this Regulation who, knowing her or him to be married, has sexual intercourse with a married person (other than his or her wife or husband) who is subject to this Regulation and who is of the opposite sex is guilty of an offence.

Penalty: A fine not exceeding K6.00 or imprisonment for a term not exceeding six months, or both.

(3) A complaint may be brought under Subsection (1) or (2) only—

(a) by the husband or wife (being a person who is subject to this Regulation) of the woman or man with whom the offence was alleged to have been committed; or

(b) in the absence of the husband or wife, as the case may be, by his or her nearest available relative.

18. Inducing, etc., female to have unlawful sexual intercourse.

A person who is subject to this Regulation who does anything with the object of inducing or compelling a female to have sexual intercourse with a male who is not her husband is guilty of an offence.

Penalty: A fine not exceeding K4.00 or in default of payment to imprisonment for a term not exceeding four months, or to imprisonment in the first instance for a term not exceeding four months.

19. Abandoned and dissolute females.

A female person who is subject to this Regulation and is abandoned and dissolute is guilty of an offence.

Penalty: A fine not exceeding K2.00 or in default of payment to imprisonment for a term not exceeding two months, or to imprisonment in the first instance for a term not exceeding two months.

20. Evidence of spouses.

On the hearing of a complaint under this Part, the husband or wife of the accused person is a competent but not a compellable witness.

SCHEDULE.

PAPUA NEW GUINEA.
Native Regulation (Papua).

Reg., Sec. 16.

Form 1.

REPORT ON ADMINISTRATION OF ESTATES.

Area:

Half-year ending:

Name of deceased.	Effects collected.	Effects sold and prices realized.	Debts paid and to whom.	Expenses paid and to whom.	Balance of effects and what done with them.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 316.

Native Regulation (Papua).

APPENDIX.

SOURCE OF THE NATIVE REGULATIONS (PAPUA).

Part A.—Previous Legislation.

Native Regulations, 1939 of the Territory of Papua

as amended by—

Statutory Rules 1939, No. 20 (Papua)

Statutory Rules 1940, No. 2 (Papua)

Statutory Rules 1940, No. 3 (Papua)

Statutory Rules 1941, No. 2 (Papua)

Statutory Rules 1941, No. 5 (Papua)

Statutory Rules No. 5 of 1948 (Papua-New Guinea)

Statutory Rules No. 9 of 1948 (Papua-New Guinea)

Statutory Rules No. 14 of 1948 (Papua-New Guinea)

Statutory Rules No. 7 of 1949 (Papua and New Guinea)

Regulations No. 9 of 1950

Regulations No. 12 of 1950

Ordinances Revision Act 1950 (No. 18 of 1950)

Regulations No. 3 of 1951

Regulations No. 11 of 1952

Regulations No. 20 of 1952

Regulations No. 28 of 1952

Ordinances Revision (Administrative Districts and Towns) Act 1952 (No. 69 of 1952)

Ordinances Revision Act 1952 (No. 12 of 1953)

Regulations No. 5 of 1953

Regulations No. 17 of 1953

Regulations No. 38 of 1953

Regulations No. 8 of 1955

Regulations No. 20 of 1955

Regulations No. 3 of 1957

Regulations No. 9 of 1957

Regulations No. 23 of 1957

Regulations No. 38 of 1957
 Regulations No. 21 of 1958
 Regulations No. 3 of 1959
 Regulations No. 30 of 1959
 Regulations No. 48 of 1959
 Regulations No. 43 of 1962
 Statutory Instrument No. 7 of 1968
 Statutory Instrument No. 9 of 1969
Wills, Probate and Administration (Amendment) Act 1970 (No. 52 of 1970)
Sorcery Act 1971 (No. 22 of 1971)
 Statutory Instrument No. 63 of 1975.¹

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ²	Section, etc., in Revised Edition.	Previous reference. ²
1	—	10	148
2	3, and <i>Compare Native Regulation Act</i> 1908, Section 6	11 12	149 150
3	14	13	151
4	<i>Wills, Probate and Administration Act</i> 1966, Section 6A(1)	14 15 16	152 153 154
5	142	17	84(1), (2), (3)
6	144	18	84(5)
7	145	19	84(7)
8	146	20	84(8)
9	147	Schedule— Form 1	154

¹ See Footnote 1 on p. 5 of this Chapter.

² Unless otherwise indicated, references are to the regulations set out in Part A.