

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 315.

Native Administration Regulation (T.N.G.).

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Constitutional limitation on application of Regulation.
2. Interpretation—
“person who is subject to this Regulation”.
3. Indemnity.

PART II.—SUCCESSION TO PROPERTY.

Division 1.—Preliminary.

4. Effect of Part II.

Division 2.—Intestate Estates.

5. Distribution on intestacy.
6. Death outside home province.
7. Undistributed moneys.
8. Expenses of distribution.
9. Disputes.
10. Reports on intestate estates.

Division 3.—Testamentary Dispositions.

11. Special provision for certain wills.
12. Register of wills, etc.
13. Distribution of testate estates.

PART III.—OFFENCES.

14. Adultery, enticement, etc.
15. Inducing, etc., female to have unlawful sexual intercourse.

SCHEDULE.

- FORM 1.—Report on Administration of Estates.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 315.

Native Administration Regulation (T.N.G.).

MADE under the *Native Administration Act 1921* of the former Territory of New Guinea (Adopted)¹.

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 New Guinea.

2. Interpretation.

In this Regulation "person who is subject to this Regulation" means an aboriginal native of—

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

and includes—

- (e) an aboriginal native of—
 - (i) any island of the Pacific Ocean; or
 - (ii) any of the East Indian Islands; or
 - (iii) Malaysia,who follows, adheres to or adopts the customs of, or lives after the manner of, the aboriginal natives of the area to which this Regulation applies; and
- (f) a person who—
 - (i) is wholly or partly descended from an aboriginal native referred to in Paragraph (a), (b), (c), (d) or (e); and
 - (ii) follows, adheres to or adopts the customs of, or lives after the manner of, the aboriginal natives of the area to which this Regulation applies.

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 lawfully acting under the powers conferred on him by this Regulation, even though no provision of this Regulation authorizes or justifies the doing of the thing.

¹The Act is not included in this Revised Edition.

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.—Intestate Estates.

5. Distribution on intestacy.

(1) When a person who is subject to this Regulation dies intestate, leaving property, the property descends to the persons who are entitled to it in accordance with custom, after all debts owing by the deceased are paid out of such of the property as does not consist of land or water or rights accruing from land or water.

(2) For the purpose of paying debts under Subsection (1), the District Officer of the province in which—

(a) the person died; or

(b) the property is situated,

may sell or barter the whole or such portion of the property as is necessary for the payment of the debts.

6. Death outside home province.

When a person who is subject to this Regulation dies intestate in a province other than the province in which his home is situated, the District Officer of the province in which he died shall realize his assets, and after payment of all local debts send the balance to the District Officer of the province in which the person's home is situated, who shall give it to the person or persons 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 apparently has a right to the money it shall be paid into the Consolidated Revenue Fund.

8. Expenses of distribution.

Before distributing under this Part the estate of a deceased person, a District Officer shall deduct all expenses properly incurred by him in dealing with the estate.

9. Disputes.

If any dispute or doubt arises as to the person entitled to any estate, the matter shall be determined by a Local Court (after hearing the evidence of the claimants to the property).

10. Reports on intestate estates.

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

Division 3.—Testamentary Dispositions.

11. Special provision for certain wills.

(1) Where in accordance with custom a person who is subject to this Regulation may make a will, the will—

(a) if made in a form that is in accordance with custom; and

(b) so far only as it disposes of customary land in accordance with custom, is effective to dispose of the land.

(2) Customary land disposed of by a will made in accordance with Subsection (1) shall not be distributed until the debts of the testator are paid.

12. Register of wills, etc.

(1) The District Officer shall—

(a) keep every will made in his province under Section 11 in safe custody at the Provincial Office; and

(b) keep a register of the wills showing the date of their execution.

(2) A copy of every such will shall be forwarded by the District Officer to the Departmental Head on the last days of March, June, September and December of each year, together with a copy of entries made in the register of wills during the preceding quarter.

(3) The Departmental Head shall keep the copies of wills so received, and shall file the copies of the District Officer's register.

13. Distribution of testate estates.

On the death of a testator who is a person who is subject to this Regulation, his property may be distributed in accordance with this Part and with the will without probate or letters of administration being obtained.

PART III.—OFFENCES.

14. Adultery, enticement, etc.

(1) A person who is subject to this Regulation who abducts or entices a wife from the custody or companionship of her 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—

(a) commits adultery; or

(b) 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 only be brought against a person under Subsection (1) or (2)—

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

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

(4) On a charge of adultery under this section, the husband or wife, as the case may be, of the accused person is a competent but not a compellable witness.

(5) A court may order that a person convicted of an offence against Subsection (2) pay a sum not exceeding K2.00, by way of compensation, to the aggrieved husband or wife, as the case may be, in place of any other punishment that may be lawfully awarded for the offence.

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

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

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

SCHEDULE.

PAPUA NEW GUINEA.

Native Administration Regulation (T.N.G.)

Reg., Sec. 10.

Form 1.

REPORT ON ADMINISTRATION OF ESTATES.

Province:

Half-year ending:

Name of deceased.	Date of death.	Moneys collected.	Amounts realized on effects (other than money).	Debts paid and to whom.	Expenses paid and to whom.	Balance of money collected and effects sold and how disposed of.

Remarks:—

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APPENDIX.

SOURCE OF THE NATIVE ADMINISTRATION REGULATION (T.N.G.)

Previous Legislation.

Native Administration Regulation (T.N.G.)

as amended by—

Gazette G.41 of 25-7-85 (clerical errors amended.)

