

STATE OF SABAH

DELEGATION OF POWERS ENACTMENT, 1963 (Sabah No. 35 of 1963)

LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
G.N.S. 109/1966	Schedule	15-11-1966
G.N.S. 11/1991	Schedule	14-11-1991
5/1996	2A	18-06-1996

An Enactment to amend and re-enact the law relating to the delegation of certain statutory powers and the signing of certain documents.

[9th October, 1963.]

ENACTED by the Legislature of the State of Sabah as follows:

Short title.

1. This Enactment may be cited as the Delegation of Powers Enactment, 1963.

PART I
DELEGATION OF POWERS

Power of Yang di-Pertua Negeri to delegate powers and duties.

*2. Where by any State law the Yang di-Pertua Negeri# is empowered to exercise any powers or perform any duties he may, save as hereinafter provided, delegate subject to such conditions and restrictions as he may prescribe the exercise of such powers or the performance of such duties to any person described by name or office.

Power of Cabinet to delegate powers and duties.

2A. Where by any State law the Cabinet is empowered to exercise any powers or perform any duties it may, save as hereinafter provided, delegate subject to such conditions and restrictions as it may prescribe the exercise of such powers or the performance of such duties to any committee or person described by name or office.

Power of Ministers to delegate powers and duties.

3. Where by any State law the Chief Minister or a Minister is empowered to exercise any powers or perform any duties he may, save as hereinafter provided, delegate subject to such conditions and restrictions as he may prescribe the exercise of such powers or the performance of such duties to any person described by name or office.

Exercise of powers by subordinates of Ministers.

4. (1) Save as hereinafter provided and subject to the provisions of any State law expressly to the contrary, all acts, orders or directions which could lawfully be done or given, in the exercise of any power or in the performance of any duty conferred or imposed by any State law, by the Chief Minister or a Minister may, subject to any directions given by him, be validly and effectually done or given on his behalf and in his name by any officer under his administrative control and expressly or impliedly authorised by him generally or specially

* See G.N.S. 171/1963, 175/1963, 70/1964, 121/1964, 30/1965, 47/1968, 43/1982, 56/1982, 1/1989, 8/1992.

Throughout the Ordinance "Yang di-Pertua Negeri" substituted for "Yang di-Pertua Negara" by virtue of Enactment No. 17 of 1976

thereto.

(2) A certificate in writing purporting to be under the hand of the Chief Minister or a Minister that any person was at the material date an officer under his administrative control or that any such officer was expressly or impliedly authorised by him to do or give a certain act, order or direction shall be conclusive evidence of the facts stated in such certificate.

Ratification of acts, etc.

5. Where any act, order or direction has been done or given by any officer in good faith and purporting to act in the name and on behalf of the Chief Minister or a Minister but without being authorised thereto, and such act, order or direction could have lawfully been done or given by such officer by virtue of section 4 of this Enactment if he had been so authorised, the Chief Minister or Minister, as the case may be, may ratify the doing or giving of such act, order or direction and thereupon the same shall have effect as if at the date on which it was done or given such officer had been duly authorised thereto:

Provided that such ratification shall not have effect to expose any person to any claim for damages or to any penalty, forfeiture or punishment to which he would not have been otherwise exposed in respect of any matter which occurred before the date on which such ratification was brought to his notice or on which notice of such ratification was published in the *Gazette*, whichever was the earlier.

Delegation not to preclude exercise of powers by persons delegating same.

6. Where by this or any other State law any person is empowered to delegate the exercise of any of the powers or the performance of any of the duties vested in him by a State law, no delegation made thereunder shall preclude such person from personally exercising or performing at any time any of the powers or duties so delegated.

No delegation of certain powers.

7. Nothing in this Part of this Enactment shall authorise the delegation of any power to make regulations conferred upon any person by State law.

Publication etc., of delegations.

8. Any delegation made under the provisions of this Part of this Enactment shall be signified by notice in the *Gazette* and shall be revocable at will by similar notice.

PART II
SIGNIFICATION

Signification of acts of Yang di-Pertua Negeri.

9. Where any State law confers upon the Yang di-Pertua Negeri power to make subsidiary legislation, give any directions, issue any order, authorise any thing or matter to be done, grant any exemption, remit any fee or penalty or exercise any other power, it shall be sufficient, unless it is otherwise expressed, if the exercise of such power be signified under the hand of any member of the Cabinet or of any officer designated, either generally or specially, by the Yang di-Pertua Negeri by notice in the *Gazette*.*

Signification of acts of Minister.

10. (1) Where any State law confers upon the Chief Minister or a Minister power to make subsidiary legislation or give any direction, approval, permission or consent it shall be sufficient, unless it is otherwise expressed, if the exercise of such power be signified under the hand of any officer under the administrative control or direction of the Chief Minister or a Minister, as the case may be, and expressly or impliedly authorised by him by name or office in that behalf.

(2) A certificate in writing purporting to be under the hand of the Chief Minister or a Minister that any person was at the material date an officer under his administrative control or direction or that any such officer was expressly or impliedly authorised by him to signify a specific matter shall be conclusive evidence of the facts stated in such certificate.

Signification by other persons.

11. (1) Without prejudice to the generality of section 10 of this Enactment, where, by

* See G.N.S. 58/1964, 110/1966.

any State law, power is given to any of the persons mentioned in the first column of the Schedule to this Enactment to make any regulation or order or give any direction, approval, permission or consent it shall be sufficient unless it is otherwise expressed, for such regulation, order, direction, approval, permission or consent to be signified under the hand of the person mentioned in the second column of the said Schedule or such officer as may be designated by notice in the *Gazette* in that behalf, either generally or specially, by the person mentioned in the said first column.

(2) The Yang di-Pertua Negeri may, by order in the *Gazette*, delete from, vary or add to the Schedule to this Enactment.

PART III
GENERAL

Proclamations and warrants.

12. Nothing in this Enactment contained shall authorise the issue under the provisions of any State law of any proclamation or warrant otherwise than by and under the hand of the person empowered by such law to issue such proclamation or warrant.

Repeal of Cap. 44.

13. The Executive Council's Powers Delegation Ordinance [*Cap. 44*] is hereby repealed.

SCHEDULE
(Section 11)

Column one

Column two

Chief Minister

State Secretary

A Minister

Permanent Secretary to
such Minister

Attorney-General

Deputy Attorney-General

State Secretary

Director of Establishment

Sabah LawNet