

CHAPTER 362

THE TRANSFER AND DELEGATION OF POWERS ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 362

THE TRANSFER AND DELEGATION OF POWERS ACT

An Act for the transfer and delegation of statutory powers and duties.

[9th December, 1962]

C.A. Act No. 13 of 1962

[R.L Cap. 511]

Act No. 48 of 1966

[PCh362s1]1. Short title

This Act may be cited as the Transfer and Delegation of Powers Act.

[PCh362s2]2. Transfer

(1) Subject to the provisions of section 4, where, by or under any written law—

(a) the President is empowered to exercise any power or to perform any duty;

(b) any other person holding office in the service of the Republic is empowered to exercise any power or to perform any duty,

the President may, by Order published in the Gazette, transfer such power or such duty, in the case referred to in paragraph (a), to some other person, or, in the case referred to in paragraph (b), to himself or to some other person.

(2) An Order made under this section—

(a) may make such amendments to the written law in respect of which it is made, being amendments consequential upon the transfer, as may be necessary for carrying such order into effect;

(b) may be expressed to have effect retrospectively from any date specified therein, and, if so expressed, shall have effect accordingly;

(c) may be revoked or varied by a subsequent order made in the like manner and subject to the same conditions.

(3) Where an Order is made under this section, the written law in respect of which it is made shall be read and construed in respect of any time on or after the date upon which the order has effect as if the written law were amended in conformity with the Order:

Provided that nothing in such order or this subsection shall affect the validity of anything previously done under any power or duty so transferred or the validity of the delegation, by a previous holder, of any such power or duty, but the same shall continue to be in force and effect as if it had been done, or as the case may be, as if the power or duty had been delegated, by the current holder of the power or duty, until revoked, amended or replaced by an authority having power in that behalf, or until it expires.

(4) Every Order made under this section shall be laid before the National Assembly.

[PCh362s3]3. Delegation Act No. 48 of 1966

(1) Subject to the provisions of section 4—

(a) the President may, by Order published in the Gazette, delegate to any other person the exercise of any power or the performance of any duty vested in him by any written law;

(b) a Minister may, by order published in the Gazette, delegate to any other person the exercise of any power or the performance of any duty vested in him by any written law;

(2) An Order made under this section—

(a) may be made subject to such conditions, qualifications or exceptions as may be prescribed therein;

(b) may be expressed to have effect retrospectively from any date specified therein, and, if so expressed, shall have effect accordingly;

(c) may be revoked or varied by a subsequent order made in the like manner.

(3) The President or a Minister, as the case may be, may exercise a power or perform a duty notwithstanding that he has delegated the exercise or performance thereof to some other person.

(4) The renovation of any Order under this section shall not affect the validity of anything previously done under any power or duty so delegated, but the same shall continue to be in force and effect until revoked, amended or replaced by an authority having power in that behalf, or until it expires.

[PCh362s4]4. Exceptions

(1) The President shall not transfer or delegate under this Act the exercise of any power or the performance of any duty—

(a) conferred or imposed upon him or a Minister by the Constitution; or

(b) which he is expressly prohibited from transferring or delegating by any other law.

(2) A Minister shall not delegate under this Act the exercise of any power or the performance of any duty—

(a) conferred or imposed on him by the Constitution;

(b) to make rules or to hear appeals; or

(c) which he is expressly prohibited from delegating by any other law.

[PCh362s5]5. Repeal

[Repeal of R.L. Caps. 1 and 444 with saving.]