Commencement: 31 August 1981

# POLICE (SENIOR OFFICERS) DISCIPLINARY PROCEDURE RULES

Order 113 of 1981

**ARRANGEMENTS OF RULES**

1. Interpretation
2. Sittings of the Commission
3. Proceedings open to public
4. Representation by next friend
5. Record of proceedings
6. Procedure of hearings
7. Service of copy of charge or statements on relevant parties
8. Notice of hearing
9. Notice of hearing to be served on witnesses
10. Notice by senior officer
11. Failing to attend at hearing, etc.
12. Complaint
13. Amendment of charge
14. Decisions of the Commission

SCHEDULE
Part 1: Notice of Hearing
Part 2: Notice of Hearing
Part 3: Notice of Intention to Call Witness(es)
Part 4: Order on Determination of Charge

**To provide for rules of procedure under which disciplinary matters are dealt with by the Police Service Commission, and for matters connected therewith.**

## 1. Interpretation

In these rules, unless the context otherwise requires –

"Commission" means the Police Service Commission established under section 9 of the Police Act, Cap. 105;

"chairman" means the person for the time being appointed chairman of the Commission in accordance with section 9(2)(c) of the Police Act, Cap. 105;

“member" means a member of the Commission appointed under section 9(2) of the Police Act, Cap. 105;

“next friend" means a police officer who appears before the Commission to assist a senior officer charged with a disciplinary offence;

“written statement" means a statement relevant to a disciplinary offence and includes any annexures or exhibits referred to therein made by a witness whom it is intended to call in proof of the charge unless a senior officer charged with the offence does not require the attendance of that witness at the hearing.

## 2. Sittings of the Commission

(1) Sittings of the Commission shall be convened from time to time.

(2) The venue, time and form for all sittings for the hearing and determination of a charge of an offence against discipline by a senior officer shall be in accordance with the directions given by the chairman.

## 3. Proceedings open to public

(1) Subject to subrule (2), all proceedings before the Commission shall be open to the public.

(2) The Commission may in its discretion and at the request of the Commissioner direct that a charge against a senior officer be heard in private.

## 4. Representation by next friend

(1) A senior officer charged with a disciplinary offence shall be entitled to be represented by his next friend.

(2) In the event where a senior officer charged with a disciplinary offence fails to appoint a next friend, the Commission may appoint a police officer to act on his behalf.

**5. Record of proceedings**

(1) A record of the proceedings shall be taken by a member appointed for such task by the chairman.

(2) Any party who appears at any proceedings shall be entitled to inspect the transcript thereof.

(3) A senior officer who gives notice of appeal to the Minister shall be entitled to a copy of the transcript.

**6. Procedure of hearings**

(1) Subject to section 60 of the Police Act, Cap. 105 and any other law for the time being in force, the proceedings before the Commission shall be conducted in accordance with procedures determined by the Commission.

(2) The law of evidence relating to hearsay evidence shall not apply to such proceedings.

**7. Service of copy of charge or statements on relevant parties**

The Commissioner shall cause to be served on the chairman and every party due to appear before the Commission at least 14 days before the hearing a copy of the charge and copies of all written statements relevant to the charge and hearing.

**8. Notice of hearing**

(1) The Commissioner shall cause to be served on every senior officer charged with a disciplinary offence a notice of hearing requiring his attendance before the Commission.

(2) A notice under this rule shall be in the form set out in Part 1 of the Schedule annexed hereto.

**9. Notice of hearing to be served on witnesses**

(1) The Commissioner shall cause to be served on every witness who is to give material evidence in relation to a disciplinary charge against a senior officer a notice requiring his attendance before the Commission or requiring a witness to bring and produce for the purposes of evidence all documents writings or things in his possession or power which may be specified or otherwise sufficiently described in the notice.

(2) A notice under this rule shall be in the form set out in Part 2 of the Schedule annexed hereto.

**10. Notice by senior officer**

(1) If a senior officer charged with a disciplinary offence requires the attendance of a witness or witnesses whose written statement has been served on him in accordance with rule 7, he shall give notice thereof to the Commissioner not less than 7 days before the proposed date of hearing, otherwise such written statements may be tendered in evidence at the hearing.

(2) A notice under this rule shall be in the form set out in Part 3 of the Schedule annexed hereto.

**11. Failure to attend at hearing, etc.**

If a senior officer charged with a disciplinary offence or a witness fails to appear at the hearing, the chairman shall notify the Commissioner forthwith.

**12. Complaint**

Any proceeding before the Commission shall be brought by the Commissioner or any police officer instructed by him.

**13. Amendment of charge**

(1) Subject to subrule (2), if at any stage of the hearing the Commission considers that the charge ought to be amended, or added to, or replaced by some other charge, the Commission may permit such amendment, addition or replacement.

(2) Where in its opinion, any amendment, addition or replacement as specified in subrule (1) is likely to take any party by surprise or may be prejudicial to the conduct of any person's case, the Commission shall grant an adjournment of the hearing.

**14. Decisions of the Commission**

(1) Decisions taken by the Commission in relation to any disciplinary charge shall be by simple majority.

(2) A decision of the Commission shall be drawn in the form of an Order as set out in Part 4 of the Schedule annexed hereto.

## SCHEDULE

### PART 1

(Rule 8(2))

### NOTICE OF HEARING

**DISCIPLINARY CAUSE No. OF 20**.....

In the matter of .....
and .....
In the matter of the Police (Senior Officers) Disciplinary Procedure Rules.

To: ..... of .....

You are hereby required to attend before the Police Service Commission constituted under the Police Act, Cap. 105, at ..... on the ..... day of ..... 20 ..... at the hour of ..... in the ..... noon, and so from day to day until the charge in the above matter is heard, to answer to the said charge.

GIVEN under my hand at ..... this ..... day of ..... 20 .....

.....
**Commissioner of Police**

**PART 2**

(Rule 9(2))

**NOTICE OF HEARING**

**DISCIPLINARY CAUSE No. OF 20**.....

In the matter of .....
and .....
In the matter of the Police (Senior Officers) Disciplinary Procedure Rules.

To: ..... of .....

You are hereby required to attend before the Police Service Commission constituted under the Police Act, Cap. 105, at ..... on the ..... day of ..... 20 ..... at the hour of ..... in the ..... noon, and so from day to day until the charge in the above matter is heard, to give evidence on behalf of ..... and also to bring with you and to produce at the time and place aforesaid the following –

GIVEN under my hand at ..... this ..... day of ..... 20 .....

.....
**Commissioner of Police**

**PART 3**

(Rule 10(2))

**NOTICE OF INTENTION TO CALL WITNESS(ES) AT THE HEARING**

**DISCIPLINARY CAUSE No. OF 20**.....

In the matter of .....
and .....
In the matter of the Police (Senior Officers) Disciplinary Procedure Rules.

To: Commissioner of Police

whereas I ..... of ..... (rank) ..... (No.) received on the ..... day of ..... 20 ..... a Notice of Hearing;
And whereas on the ..... day of ..... 20 ..... I received a copy of the charge together with copies of statements by witness in this matter;

I therefore intend that the following witness or witnesses whose statements I have to be present and be called at the hearing –

.....
.....
.....

DATED at ..... this ..... day of ..... 20 .....

.....
Signature

(NOTE: This Notice must be served on the Commissioner not less than 7 days before the date of the hearing as specified in the Notice of Hearing.)

**PART 4**

(Rule 14(2))

**ORDER ON DETERMINATION OF CHARGE**

**DISCIPLINARY CAUSE No. OF 20**.....

In the matter of .....
and .....
In the matter of the Police (Senior Officers) Disciplinary Procedure Rules.

*WHEREAS* A charge having been brought by the Commissioner of the Vanuatu Police Force that ..... of ..... did .....
.....
.....

*AND WHEREAS* the Police Service Commission having inquired into the truth of the charge;

*AND WHEREAS* The Police Service Commission on finding the charge not proved/proved.

NOW THEREFORE IT IS HEREBY ORDERED AS FOLLOWS –
.....
.....
.....

*GIVEN* under our hands at ..... this ..... day of ..... 20 .....

| | | |
|---|---|---|
| ..... | ..... | ..... |
| Chairman | Member | Member |