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CHAPTER 105

POLICE

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POLICE

To provide for the establishment, organisation, discipline, powers and duties of the Vanuatu Police Force and for matters incidental thereto.

PART 1 – PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires –

"Commission" means the Police Service Commission established under Section 9;

"Commissioner" means the Commissioner of Police appointed under section 7A;

"Constable" means a member with the lowest rank in the Force;

"Deputy Commissioner" means a Deputy Commissioner of Police appointed under section 7B;

"Force" means the Vanuatu Police Force established by this Act and includes its policing, maritime and mobile elements;

"Force Orders" means orders made by the Commissioner under paragraph 6(1)(b);

"member" means any member of the Force regardless of rank;

"Minister" means the Minister for the time being responsible for the Force or any Minister acting on his or her behalf;

"Office" means the Force Legal Office established under section 22E;

"overseas contingent" means any part of the Force engaged outside Vanuatu under paragraph 4(4)(a) or (b);

"senior officer" means any member of or above the rank of inspector;

"Special Constable" means a person approved by the Commissioner under subsection 22B(2) to assist the Force in the performance of its function;

"subordinate officer" means any member below the rank of inspector.

1A. Objects of the Act

The principle objects of this Act are:

(a) to establish a Vanuatu Police Force that is efficient and effective in serving the Government and the citizens of the Republic of Vanuatu according to Law;

(b) to determine the powers and responsibilities of the Commissioner as the most senior member of the Force;

(c) to establish the Police Service Commission and to ensure that the Commission is able to assist with the functions of the Force and its members, including the Commissioner;

(d) to provide a legal framework for the appointment, powers, duties and discipline of members of the Force;

(e) to establish the rights and obligations of members of the Force.

1B. Interference with Commission prohibited

(1) Subject to this Act, the Commission is not subject to the direction or control of any other person or body in relation to the exercise of its powers and functions under this Act.

(2) In exercising its powers and functions under this Act, the Commission must have regard to the policies of the Government as communicated in writing to the Commission from time to time by the Minister.

1C. Government to provide adequate funding

The Government is to provide a sufficient budget to the Force and the Commission to perform their functions efficiently, effectively and properly.

PART 2 – CONSTITUTION, FUNCTIONS, ORGANISATION AND ADMINISTRATION

2. Establishment of the Vanuatu Police Force

There is hereby established a police force called the Vanuatu Police Force.

3. Composition of the Force

The Force consists of:

(a) the Commissioner of Police; and

(b) any Deputy Commissioner of Police; and

(c) members.

4. Functions of the Force

(1) It shall be an essential duty of the Force to maintain an unceasing vigilance for the prevention and suppression of crime, and to work closely with the community in this respect.

(2) The Force shall be employed throughout Vanuatu and its territorial waters for –

(a) the preservation of peace and the maintenance of law and order; and

(b) the protection of life and property; and

(c) the enforcement of laws; and

(d) the prevention and detection of offences and the production of offenders before the Courts; and

(e) the performance of general policing duties as well as boarder, maritime and national security operations; and

(f) such other duties as may be expressly provided for by law; and

(g) anything which is incidental or conducive to the performance of any of the above functions.

(3) Members of the Force shall be entitled for the performance of their duties to carry arms which shall only be used on the instructions of the Commissioner or of a senior officer authorised by him or her and in accordance with the general directions of the Minister.

(4) Members of the Force may be engaged outside Vanuatu with the approval of the Council of Ministers on the recommendation of the Prime Minister and the Minister of Foreign Affairs as –

(a) a military force in operations involving hostilities or war; or

(b) a military, police or internal security force for operations involving peace-making, peace-keeping or truce and cease fire operations.

(5) The Prime Minister and the Minister of Foreign Affairs must consult with the Commissioner before making a recommendation.

5. Employment of the Force for defence or internal security

(1) Notwithstanding anything else contained in this Act the Prime Minister may, if he or she considers that there is a grave threat to the defence or the internal security of Vanuatu, direct that the whole or any part of the Force shall –

(a) be employed as a military or internal security force; and

(b) comply with the orders of any military or other authority he or she may specify.

(2) Except so far as the Prime Minister may direct, any direction made under the provisions of subsection (1) shall not affect –

(a) any powers of appointment, dismissal or disciplinary control of members conferred upon any person or authority; or

(b) the command and superintendence of the Force vested in the Commissioner.

6. General powers of Commissioner

(1) The Commissioner shall have the command, superintendence and direction of the Force and, subject to the provisions of this Act and to the general directions of the Minister may –

(a) make such appointments, promotions and reductions in rank in respect of all subordinate officers as he or she may consider fit; and

(b) make Force Orders for the general government of members in relation to their enlistment, discharge, training, arms, clothing, equipment and other appointments and particular services as well as their distribution and inspection and other such orders as he or she may deem expedient for preventing neglect and for promoting the efficiency and discipline of all members.

(2) Any act or thing which may be done, ordered or performed by the Commissioner, may with the authority of the Commissioner be done, ordered or performed by a senior officer.

7. Officer in charge of police

(1) The command and control of any particular unit of the Force in any place shall be vested in such member as may be appointed by the Commissioner to be in charge thereof. Any member so appointed shall be an officer in charge of police for the purposes of this Act.

(2) An officer in charge of police shall be subordinate to and carry out the orders of the Commissioner in all matters connected with –

(a) the discharge of the general functions of the Force as provided by section 4; and

(b) the discipline, training, promotion and welfare of all members under his or her command.

(3) Every officer in charge of police shall be responsible for all public stores and moneys issued and delivered for the use of the unit of police under his or her command and for any other thing, money or valuable security coming into his or her possession by reason of his or her appointment and shall account for the same to the Commissioner or to any public officer authorised for that purpose.

(4) Every Officer in charge of police shall keep such books and records and shall render such returns as the Commissioner may from time to time direct.

PART 2A – COMMISSIONER AND DEPUTY COMMISSIONER

7A. Appointment of Commissioner

(1) The President is to appoint a person in writing as the Commissioner of Police on the advice of the Commission after consultation with the Minister for a period of 5 years and the person is eligible for reappointment.

(1A) The Commission must consult the Minister before an advice can be made by it to the President under subsection (1).

(2) The Commission must review the appointment made under subsection (1) after 3 years from the date on which the appointment is made.

(3) If the Commission is satisfied with the performance of the Commissioner after reviewing his or her appointment under subsection (2), the Commission must advise him or her and the Minister of its decision.

(4) The Commissioner is to continue in office for the remaining period of his or her term after being informed of the decision of the Commission.

(5) However, if the Commission is not satisfied with the performance of the Commissioner after reviewing his or her appointment under subsection (2), the Commission must after consultation with the Minister advise the President to terminate the appointment.

(6) The Commission must, prior to making a recommendation to the President for the appointment of a person as the Commissioner, make appropriate enquiries as to the applicant's integrity and character.

(7) A person must not be appointed as the Commissioner under subsection (1) unless:

(a) he or she must have served in a senior position in the Police Force in Vanuatu or in any other country for a period of 7 years or more; and

(b) preferably has a tertiary qualification in the area of policing, military, management or Law.

(8) Subject to this Act and any other Act, the terms and conditions of appointment of the Commissioner, including salary, allowances and other entitlements are to be determined by the Commission after consultation with the Minister in a written form of agreement with the prior approval of the Council of Ministers.

(9) The Commissioner may resign from his or her office by giving 3 months notice in writing to the President.

(10) The Commissioner must give a copy of his or her resignation to the Minister and the Commission.

7B. Appointment of Deputy Commissioner

(1) The Commission is to appoint in writing 3 persons as Deputy Commissioners on the recommendation of the Minister after consultation with the Commissioner for a period of 5 years and the persons are eligible for reappointment.

(2) The Commission must review the performance of a deputy Commissioner after 3 years from the date of the appointment of a Deputy Commissioner.

(3) If the Commission is satisfied with the performance of a Deputy Commissioner after reviewing his or her performance under subsection (2), the Commission must advise him or her and the Minister of its decision.

(4) A Deputy Commissioner is to continue in office for the remaining period of his or her term after being informed of the Commissions decision.

(5) However, if the Commission is not satisfied with the performance of a Deputy Commissioner after reviewing his or her appointment under subsection (2), the Commission must after consultation with the Minister terminate the appointment of a deputy Commissioner.

(6) The Minister must, prior to making a recommendation to the Commission under subsection (1) , make appropriate enquiries on the applicant's integrity and character.

(7) A person must not be appointed as a Deputy Commissioner unless:

(a) the person is a citizen of Vanuatu; and

(b) has served in the Force for a period of not less than 10 years; and

(c) preferably has a tertiary qualification in the area of policing, military, management or Law.

(8) A Deputy Commissioner may resign from his or her office by giving 3 months notice in writing to the Commission.

(9) A Deputy Commissioner must give a copy of his or her resignation to the Minister.

(10) The Commission is after consultation with the Minister, to determine the terms and conditions of the appointment of a Deputy Commissioner.

7C. Acting Commissioner during vacancy

(1) The President may, on the advice of the Commission after consultation with the Minister appoint a person in writing as Acting Commissioner for a period of not more than 6 months if the office of the Commissioner is vacant.

(2) To avoid doubt, the vacant position of the Commissioner must only be filled by a Deputy Commissioner.

(3) The President, acting on the advice of the Commission after consultation with the Minister, may at any time terminate an acting appointment made under subsection (1).

(4) An Acting Commissioner may exercise all the powers, functions and duties of the Commissioner.

(5) Subject to any other Act, the Minister after consultation with the Prime Minister is to determine the terms and conditions of the appointment of the Acting Commissioner including salary, allowances, and other entitlements in a written form of agreement entered into by the Minister and the Acting Commissioner.

(6) The Acting Commissioner may resign from his or her office by giving 1 month notice in writing to the President.

(7) An Acting Commissioner must give a copy of his or her resignation to the Minister and the Commission.

(8) The office of the Commissioner is taken to be vacant for the purpose of subsection (1) if:

(a) the President terminates the appointment of the Commissioner under subsection 7C(3); or

(b) a notice of resignation is given by the Commissioner under subsection 7C(6); or

(c) the person who occupies the office of the Commissioner has died.

7D. Acting Deputy Commissioner during vacancy

(1) The Commission may, after consultation with the Minister, appoint in writing an Acting Deputy Commissioner for a period of not more than 6 months if the Office of one of the Deputy Commissioners is vacant.

(2) To avoid doubt, the vacant position of the Deputy Commissioner must only be filled by one of the Assistant Commissioners.

(3) The Commission after consultation with the Minister may at any time terminate an acting appointment made under subsection (1).

(4) An Acting Deputy Commissioner may exercise all the powers, functions and duties of the Deputy Commissioner.

(5) The Acting Deputy Commissioner may resign from his or her office by giving 1 month notice in writing to the Commission.

(6) An Acting Deputy Commissioner must give a copy of his or her resignation to the Minister.

(7) The office of the Deputy Commissioner is taken to be vacant for the purpose of subsection (1) if:

(a) the Commission terminates the appointment of the Deputy Commissioner under 7D(3); or

(b) a notice of resignation is given by the Deputy Commissioner under subsection 7D(5); or

(c) the person who occupies the office of the Deputy Commissioner has died.

7E. Absence of Commissioner or Deputy Commissioner

(1) If the Commissioner or one of the Deputy Commissioners is absent from duty or from Vanuatu, or is for any other reason unable to perform the functions of the Commissioner or a Deputy Commissioner, the next senior member available:

(a) has and may exercise all the powers of the Commissioner or a Deputy Commissioner (except, in the case of the Commissioner, has the power to make recommendations under subsection 10(1)); and

(b) perform the functions and duties of the Commissioner or a Deputy Commissioner.

(2) For the purposes of subsection (1), the Commissioner is to determine the order of seniority of members.

(3) The Commission, after consultation with the Minister, is to determine the terms and conditions of appointment of the senior member who exercises the powers or performs the functions of the Commissioner.

(4) In this section, a reference to the “Commissioner” or a “Deputy Commissioner” includes a reference to the “Acting Commissioner” or an “Acting Deputy Commissioner.”

(5) At least one Deputy Commissioner must be on duty and remain in Vanuatu to exercise the powers and perform the functions of the Commissioner if he or she is overseas.

7F. Termination of Appointment of the Commissioner

(1) The President is to terminate the appointment of the Commissioner on the advice of the Commission after consultation with the Minister, if the Commissioner;

(a) is physically or mentally incapacitated; or

(b) is convicted of a criminal offence; or

(c) becomes bankrupt; or

(d) neglects his or her duty as the Commissioner; or

(e) is incompetent to perform the functions of the Commissioner.

(2) The Commission must before advising the President to terminate the appointment of the Commissioner, investigate the grounds for the proposed termination of the Commissioner under subsection (1).

(3) If the Commission is satisfied after investigating that the Commissioner has contravene paragraph 1(a), (b),(c) (d) or (e), the Commission must advise the President to terminate the appointment of the Commissioner.

7G. Termination of Appointment of the Deputy Commissioner

(1) The Commission is to terminate the appointment of the Deputy Commissioner if the Deputy Commissioner;

(a) is physically or mentally incapacitated; or

(b) is convicted of a criminal offence; or

(c) becomes bankrupt; or

(d) neglects his or her duty as the Deputy Commissioner; or

(e) is incompetent to perform his or her functions as the Deputy Commissioner.

(2) If the Commission terminates the appointment of the Deputy Commissioner, the Commission must:

(a) inform the Deputy Commissioner of its decision to terminate the appointment; and

(b) set out the reasons for the termination.

7H. Delegation of powers of the Commissioner

The Commissioner may, in writing, delegate to a Deputy Commissioner any of the Commissioner's powers, functions or duties under this Act except the power of delegation.

PART 3 – POLICE SERVICE COMMISSION

8. (*Repealed*)

9. Police Service Commission

(1) The Police Service Commission is established.

(2) The Commission consists of 6 members appointed in writing by the President for 4 years.

(3) A member of the Commission is to be nominated for appointment by each of the following persons:

(a) the Prime Minister; and

(b) the Minister; and

(c) the Chief Justice; and

(d) the Minister of Justice; and

(e) the Chairperson of the Public Service Commission; and

(f) the Chairperson of the National Council of Chiefs.

(4) A member of the Commission is to hold office for the period of his or her appointment unless he or she is removed from, or otherwise vacates, office earlier.

9A. Functions and powers of the Commission

(1) The Commission has the following functions:

(a) to advise the President in respect of the appointment of the Commissioner; and

(b) to appoint the Deputy Commissioner on the recommendation of the Minister pursuant to subsection 7B(1) ; and

(c) to appoint senior officers of the Force on the recommendation of the Commissioner; and

(d) to appoint persons with relevant qualifications from outside the Force on the recommendation of the Commissioner; and

(e) to assist the Force in relation to the resignation, compulsory retirement, discharge and dismissal of members; and

(f) to determine whether a member has been involved in politics or joined a trade union in contravention of this Act; and

(g) to advise the Commissioner on issues relating to the conduct or practices of the Force or its members; and

(h) to hear and determine disciplinary matters relating to members; and

(i) to respond to all reasonable requests for assistance made by the Commissioner; and

(j) to be responsible to administer and manage the Human Resource of the Force; and

(k) to carry out such other functions as are conferred on the Commission by this Act or any other Act.

(2) Subject to this Act, the Commission is to act independently on matters affecting members of the Force including matters relating to the appointment, resignation, compulsory retirement, discharge, dismissal and discipline of members.

(3) The Commission must carry out its functions in a timely manner including in relation to the appointment, resignation, compulsory retirement, discharge, dismissal and discipline of members and must regularly advise any member affected on the progress of matters before the Commission.

(4) The Commission may make enquiries, or receive or prepare reports, as it thinks necessary, in relation to any matter before the Commission or such other matters as the Commissioner may reasonably request from the Commission.

(5) The Commission must comply with this Act in performing its functions.

(6) Subject to this Act, the Commission has the power to do all things necessary or convenient to be done for or in connection with the performance of its function.

9B. Chairperson and Deputy Chairperson of the Commission

(1) The Minister is to appoint a Chairperson of the Commission after consultation with the Prime Minister from amongst the members of the Commission for a term of 4 years.

(2) The Chairperson is the chief executive officer of the Commission on a full time basis.

(3) The Chairperson holds office for the period of his or her appointment unless he or she is removed in writing by the Minister after consultation with the Prime Minister.

(4) If the Minister proposes to terminate the appointment of the Chairperson under subsection (4), the Minister must:

(a) inform the Chairperson of his or her decision to terminate the appointment ; and

(b) set out the reasons for the termination; and

(c) give him or her 7 days to respond to the proposed termination.

(5) The Minister is to terminate the appointment of the Chairperson if he or she is not satisfied with the response of the Chairperson given under paragraph (5)(c).

(6) The Commission is to elect the Deputy Chairperson of the Commission from amongst the members of the Commission.

9C. Disqualifications for appointment, resignation and removal

(1) A person is disqualified for appointment as a member of the Commission if he or she:

(a) is a member of Parliament; or

(b) is a member of a Provincial Council; or

(c) is a member of a Municipal Council; or

(d) exercises a position of responsibility within a political party; or

(e) is a member of the Force; or

(f) is convicted of a criminal offence and sentenced to imprisonment including a suspended sentence.

(2) A person ceases to be a member of the Commission if the circumstances under subsection (1) arise that would disqualify him or her appointment from being a member.

(3) A member of the Commission may resign from his or her office by giving 1 month notice in writing of his or her intention to the President.

(4) Members hold office for the period of their appointment unless they are removed in writing by the Minister after consultation with the Prime Minister for reasons of:

(a) physical or mental incapacity; or

(b) conviction of a criminal offence ; or

(c) bankruptcy; or

(d) failure to attend 3 consecutive meetings without the permission of the Commission.

9D. Functions of the Chairperson

In addition to the duties and responsibilities of the Chairperson under this Act, the Chairperson has the following functions:

(a) to call regular meetings of the Commission;

(b) to preside over and chair meetings of the Commission;

(c) to have a casting vote at a meeting if there is an equality of votes;

(d) to be primarily responsible for the effective operation, management and performance of the Commission;

(e) to ensure that appropriate written records of all meetings of the Commission are maintained, including the deliberations and decisions of the Commission;

(f) to establish guidelines and procedures regarding meetings of the Commission including conflict of interest issues;

(g) to provide an annual and financial report to the Minister;

(h) to ensure that the Commission performs its functions in a timely manner including in relation to matters involving the appointment, resignation, compulsory retirement, discharge, dismissal and discipline of members, and to ensure that the Commissioner and members so affected are regularly advised on the progress of such matters before the Commission;

(i) such other functions as are conferred on the Chairperson under this Act or any other Act.

9E. Meetings of the Commission

(1) The Commission may hold such meetings as are necessary for the proper performance of its functions under this Act.

(2) The Chairperson or in the absence of the Chairperson, the Deputy Chairperson:

(a) may convene a meeting at any time; and

(b) must convene a meeting if he or she receives a written request signed by at least 2 members.

(3) At a meeting of the Commission, a quorum consists of 4 members present at a meeting, one of whom must be the Chairperson or in his or her absence, the Deputy Chairperson.

(4) A member or the Secretary of the Commission must keep and maintain appropriate written records in relation to all proceedings and decisions of the Commission.

(5) The Chairperson is to preside at all meetings of the Commission, however in his or her absence, the Deputy Chairperson is to preside at such meetings.

(6) A member of the Commission including the Chairperson must not preside over, deliberate, vote or otherwise be involved in any matter before the Commission in which he or she has a conflict of interest.

9F. Remuneration of members of the Commission

A member of the Commission including the Chairperson is entitled to such remuneration and allowances as may be determined in writing by the Minister.

9G. Secretary to the Commission

(1) The Commission after consultation with the Minister is to appoint a person as a secretary to the Commission.

(2) An appointment under subsection (1) must be based on merits.

(3) The Commission is to determine in writing the terms and conditions of appointment of the Secretary.

9H. Functions of the secretary

(1) The secretary of the Commission is to provide secretariat and administrative support to the Commission.

(2) In addition to subsection (1), the secretary has the following functions:

(a) attend and assist at meetings of the Commission, including maintaining and compiling records and minutes of the meetings as well as circulating agenda items and other relevant documents; and

(b) provide an administrative support role to the Commission as reasonably directed by the Chairperson of the Commission or any person acting as the Chairperson; and

(c) liaise with the Offices of the Commissioner, the Deputy Commissioner and the Minister as appropriate and required from time to time; and

(d) liaise with the Commissioner and the Deputy Commissioner as appropriate and required from time to time; and

(e) liaise with the relevant authorities within the Force in relation to matters involving the conduct and discipline of members; and

(f) take primary responsibility for the effective operation, management and performance of the Office of the Commission; and

(g) such other functions as may be conferred on the secretary by the Commission or by this Act or any other Act.

(3) The secretary and any other person appointed by the Commission, are subject to the direction of the Chairperson of the Commission.

9I. Other staff

The Commission may, after consultation with the Minister, appoint such other staff of the Commission as is required for the proper performance of its functions.

PART 3A – APPOINTMENT, ENROLMENT, SERVICE AND DISCHARGE

10. Appointments

(1) Senior Officers, other than the Commissioner and any Deputy Commissioner, are to be appointed by the Commission, acting on the recommendation of the Commissioner.

(2) Subordinate officers, including constables, are to be appointed by the Commissioner.

10A. Terms and conditions of employment of members

The terms and conditions of employment of the members are to be determined by the Commission.

11. Qualifications for appointment

(1) Except on the authority of the Commission, acting with the prior approval in writing of the Minister, every candidate for appointment to the Force as a member shall be a citizen of Vanuatu.

(2) The Minister may after consultation with the Council of Ministers prescribe such further qualifications for appointment as he or she may consider to be in the public interest.

12. Form of application

A candidate for appointment to the Force shall make application in writing in such form as the Commissioner may determine.

13. False statements to obtain appointment

(1) Any person who makes any statement, knowing the same to be false, for the purpose of obtaining for himself or herself or for any other person any appointment in the Force shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(2) A person who is found to be appointed as the result of any false statement shall be liable to be dismissed from his or her appointment whether or not he or she is convicted of an offence under this section.

Appointment of Probationary Constables

14. Appointment on probation

(1) A successful candidate shall be appointed as probationary constable for a period of 2 years by a letter of appointment signed by the Commissioner.

(2) The Commissioner may at any time discharge a probationary constable if he or she considers that such constable is unlikely to become an efficient and effective member of the Force.

15. Enrolment register

(1) The name of every probationary constable shall be entered in an enrolment register in the chronological order of appointment.

(2) Every entry under subsection (1) shall include the enrolment number of the member, the date of enrolment, his or her date of birth and the date when he or she is taken off the strength of the Force.

16. Recruit training

(1) Every probationary constable shall be required to complete a period of training in such form and of such duration as shall be determined by the Commissioner.

(2) No probationary constable shall be invested with the powers and duties of his or her office in accordance with the provisions of this or any other Act for the time being in force until he or she has successfully completed the period of training provided for in subsection (1) and has made the declaration provided for in section 17.

17. Declaration

Upon completion of the training provided for in subsection 16(1), a probationary constable must make and sign before a senior officer a declaration in the following form:

I swear that I will faithfully and diligently exercise and perform my powers and duties as a member of the Vanuatu Police Force to keep public order and enforce the law, and will obey lawful direction, instruction or order given to me by a superior officer in relation to all matters concerning the service to which I am appointed, with integrity and honesty and without fear and favour. So help me God.

18. Police identity card

A police identity card in the form in Schedule 1 signed by the Commissioner or a senior officer so authorised by the Commissioner shall be issued to every member at the time he or she is sworn in and shall be evidence of the appointment of such member.

19. Re-engagement for continuous service

(1) Upon satisfactory completion of the probationary period provided for in section 14, a probationary constable shall be re-engaged for continuous service.

(2) If for any good reason, the Commissioner decides to refuse to accept a probationary constable for re-engagement for continuous service, he or she shall inform the constable of his or her refusal not less than 1 calendar month before the expiry of the probationary period.

Appointment of Subordinate and Senior Officers

20. Appointment of officers from within the Force

Subject to the provisions of section 21, appointments of subordinate and senior officers shall be made by promotions from within the Force having regard to –

(a) the individual merit of each candidate based on his or her ability, efficiency, powers of leadership, conduct and character; and

(b) his or her length of service and seniority in his or her rank; and

(c) any written form of testing or examination that the Commissioner may consider necessary.

21. Appointment of officers from outside the Force

(1) The Commission may exceptionally and on the recommendation of the Commissioner, appoint a person, not being a member as a subordinate officer or senior officer if such person possesses special professional or technical qualifications that will be of benefit to the Force.

(2) Any person appointed as a subordinate officer or senior officer under subsection (1) shall be enrolled and sworn in accordance with this Part.

22. General principles of promotion

The essential object of promotion is the creation of a cadre of senior and subordinate officers. Promotions shall be made according to the needs of the Force and the ability of members promoted and not only as a reward for service.

Force secondment and special constables

22A. Secondment of persons to assist the Police

(1) After consultation with the Commission, the Commissioner may, by written agreement with a body or organisation whether within or outside Vanuatu, including a foreign police force, arrange for a person who:

(a) is employed by that body or organisation; and

(b) has suitable qualifications and experience;

to assist the Force in the performance of its functions by performing the functions specified in the agreement.

(2) The terms and conditions, including any remuneration and allowances, applicable to a person performing functions under an agreement are those specified in the agreement.

22B. Special Constables

(1) The Special Constabulary is established, whose members are to be known as special constable or police reserve.

(2) The Commissioner may, subject to appropriate training, and character clearances as may be prescribed, appoint a person as a special constable.

(3) The primary role of a special constable is to assist the Force in carrying out its functions under section 4.

(4) In addition to subsection (3), a special constable is to assist the Force during all or any of the following:

(a) unlawful assemblies or riots;

(b) national emergencies or natural disasters;

(c) festivals or public holidays;

(d) disturbances of public peace and order.

(5) A special constable may assist a custom chief or a community leader to maintain law and order in the communities and to assist in such other ways as may be directed in writing by the Commissioner.

(6) The Commissioner is to assign, in writing, special constables to duty on a temporary basis when a special need arises or for such period as the Commissioner sees fit to assist the Force in carrying out its functions under this Act or any other Act.

(7) A special constable ceases, his or her assigned duties when the Commissioner directs in writing that the special need no longer exists.

(8) A special constable has the same powers, authorities and privileges of a member if he or she performs assigned duties under this Act.

(9) A special constable of equivalent rank to a member is to be paid the same remuneration or allowances at the rate payable to the member, and such remuneration or allowances are to be paid only when the special constable is on assigned duties.

(10) The Commission must keep a Register of special constables appointed under this section.

(11) An appointment of a special constable made under subsection (2) must be published in the Gazette.

22C. Secondment of members to other Police Forces and Organisation

(1) The Commissioner may arrange for a member of the Force to be seconded for a special period:

(a) to the police force of a foreign country; or

(b) to the Vanuatu Public Service; or

(c) to any other body or organisation (including an international body or organisation) whether within or outside Vanuatu.

(2) The Commissioner may at any time terminate a secondment of the member after consultation with the entity to which the member was seconded.

(3) The Minister is to issue written guidelines on secondment of members by Order published in the Gazette.

22D. Effect of secondment on status as member

(1) The secondment under section 22C of a member of the Force does not affect:

(a) the members status as a member of the Force; and

(b) the application of any provisions of this Act in relation to the member during the period of secondment.

(2) A member, remains subject to the same obligations and liabilities in relation to the discipline in which he or she is subject to if he or she was not on a secondment.

(3) This section does not affect:

(a) any rights, powers or immunities that a member who is seconded under section 22C has by virtue of holding the office or position to which the member has been seconded; or

(b) the extent to which the member is subject to obligations or liabilities in relation to discipline by virtue of holding the office or position to which the member has been seconded.

22E. Force Legal Office

(1) A Force Legal Office is established.

(2) A person appointed to the Office as a legal officer must have qualification in legal studies or a law degree from a recognised tertiary institution.

(3) The Attorney General is to appoint a person with legal qualification as a legal officer in the Office.

Service Matters

23. Postings and transfers

(1) In this section the word, "post" means a particular police function and does not imply a police rank.

(2) A member shall serve in such post and in such place within Vanuatu as the Commissioner may, in the interests of the Force, decide.

24. Pay and allowances

(1) Members are to be paid such salaries and allowances fortnightly in arrears as may from time to time be approved by the Government Remuneration Tribunal, pursuant to the Government Remuneration Tribunal Act [CAP 250], having regard to the rank and service of each member

(2) No person may retain all or any part of the pay due to a member except as provided for by law.

25. Official quarters

(1) Every member shall be required to live in such official quarters as may be allocated to him or her by the Commissioner.

(2) No business or other commercial activity may be conducted in or from any official quarter.

26. Uniforms

(1) Every member shall, at the time of his or her appointment on probation and thereafter as necessary be issued free of charge with such items of uniform and equipment as may from time to time be determined. All such items shall be on the personal charge of the member who shall be responsible for their safe custody and proper upkeep.

(2) Except when specifically authorised by the Commissioner, members shall wear their uniform in the exercise of their duties.

(3) The Minister shall prescribe the uniform to be worn by members, the issue thereof and the issuing of equipment to them.

Resignation, Discharge and Dismissal

27. Resignation from the Force

(1) Any member who wishes to resign from his or her appointment shall give 3 months notice in writing of his or her intention to do so unless such period is reduced or waived by the Commissioner for subordinate officers and by the Commission for senior officers.

(2) Resignation shall not in itself be a bar to subsequent re-appointment.

28. Compulsory retirement of police officers

(1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, for the purposes of ensuring the renewal of holders of public offices within the Force, the Commissioner in the case of a subordinate officer or the Police Service Commission acting on the recommendation of the Commissioner, in the case of a senior officer, may compulsorily retire any member from the Force.

(2) Notice of compulsory retirement shall be given by or on behalf of the Commissioner or Commission in writing to a member to whom subsection (1) applies.

(3) The notice referred to in subsection (2) shall state the day on which the member to whom it is given shall be retired and shall be not less than 3 months after the day on which the notice is given to the member.

(4) Any member to whom subsection (1) applies who is not satisfied with any decision of the Commissioner or Commission may appeal that decision to a court of competent jurisdiction.

29. Severance payment

A member who has:

(a) retired in accordance with section 28; or

(b) died in service or due to a natural cause; or

(c) an illness and is discharged on medical ground; or

(d) resigned,

is to receive from the Government a severance payment calculated at a rate as is determined for public servants by the Public Service Commission and pro-rata for each uncompleted year.

30. Prolongation of service in case of war, etc.

Any member whose period of service expires during a state of war, insurrection or hostilities may be retained and his or her service prolonged for such further period not exceeding 6 months after the cessation of such state of war, insurrection or hostilities as the Minister may direct.

31. Discharge from the Force

(1) At any time a member may be discharged by the Commissioner, in the case of a subordinate officer or by the Commission acting on the recommendation of the Commissioner, in the case of a senior officer –

(a) if he or she is certified by a recognized medical practitioner to be mentally or physically unfit for further service;

(b) on reduction of establishment or on re-organization of the Force to promote efficiency; or

(c) if, being a probationary constable the Commissioner considers that he or she is unlikely to become an efficient and effective member of the Force.

(2) A discharge under the provisions of subsection (1) of any subordinate officer who has completed 2 years service in the Force shall be subject to confirmation by the Commission.

(3) Every member discharged under the provisions of subsection (1) shall be given not less than 3 months notice of the intention to discharge him or her from the Force.

(4) Where –

(a) a member is discharged in accordance with subsection (1)(b); or

(b) the Minister is satisfied that a member discharged in accordance with subsection (1)(a) has been permanently injured –

(i) in the actual discharge of his or her duty; and

(ii) without his or her own default; and

(iii) by some injury specifically attributable to the nature of his or her duty,

the Minister may after consultation with the Minister responsible for finance grant that member such gratuity as he or she may consider fit in addition to any pension to which he or she may be entitled.

(5) A gratuity awarded in accordance with subsection (4) shall not exceed half a month's salary for every period of 12 months service which shall be calculated on the amount of salary paid immediately before discharge.

32. Inquiry in case of member discharged as mentally or physically unfit

Whenever a member is discharged because he or she has been certified by a recognized medical practitioner to be mentally or physically unfit for further service, the Commissioner shall cause an inquiry to be made to determine if there was any connection between the member's duty and his or her unfitness and shall submit the report of such inquiry to the Minister.

32A. Compensation, etc., for injury, death, etc.

(1) If any member is temporarily incapacitated by reason of any wound or injury or sickness contracted by him or her in the performance of any duty or training by him or her under this Act and such wound or injury is received or such sickness is contracted in the actual discharge of his duty as a member and without his own default, he or she shall be eligible to receive free medical treatment therefore and full pay for the period of such incapacity.

(2) If any member receives any permanent disablement attributable to any wound or injury received or sickness contracted by him or her in the circumstances referred to in subsection (1), the Minister may, after consultation with the Minister responsible for finance, pay gratuity to such member at such rates as shall be prescribed.

(3) If any member is killed or dies as a result of any wound or injury received or sickness contracted by him or her in the circumstances referred to in subsection (1), the Minister may, after consultation with the Minister responsible for finance, grant to the dependents of such member such pension or allowance at such rates as shall be prescribed.

(4) If the property of any member is damaged during the performance of any duty or training by him or her under this Act, such property being damaged without his or her default and on account or circumstances specifically attributable to the nature of his or her duties as a member, the Minister may, after consultation with the Minister responsible for finance, award such member such compensation at such rates as shall be prescribed.

(5) The Minister shall not award to any member or to the dependants of any member any gratuity, allowance, pension or compensation under subsections (2), (3) or (4) if such member or such dependents is or are eligible to receive a gratuity, allowance, pension or compensation in respect of the same disablement, death or damage under any other law in force at the time.

(6) A gratuity, pension, allowance or compensation paid under this section shall not be assignable or transferable nor liable to be attached, sequestered or levied upon except for the purpose of satisfying –

(a) a debt due to the Government; or

(b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or husband, or former wife or husband as the case may be, or minor child of the person to whom the pension, gratuity or other allowance has been granted.

33. Dismissal from the Force

(1) Any member may be dismissed from the Force in accordance with the provisions of this Act if he or she has been –

(a) found to have committed an offence against discipline; or

(b) convicted of an offence against any written law.

(2) Such dismissal shall take effect from the date of such finding or conviction or from such later date as the Commissioner or Commission, as the case may be, decides.

(3) A member who has been dismissed from the Force under the provisions of this section may not be re-appointed.

34. Arms and equipment to be delivered up

Any member who, having ceased to be a member does not without undue delay deliver up to the person appointed by the Commissioner for that purpose, or to the officer in charge of police at the place at which he or she was last stationed, all arms, ammunition, equipment, clothing and appointments whatsoever which have been supplied to him or her and are the property of the Government shall be guilty of an offence and liable to a fine not exceeding VT 20,000 or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

PART 3B – OVERSEAS CONTINGENTS

34A. International agreements

(1) Prior to the posting of an overseas contingent, the Minister must, wherever possible, enter into an agreement with the country or countries affected or the relevant international body (if any).

(2) The agreement must set out –

(a) the command, control and administrative arrangements necessary for the good order, discipline and maintenance of the overseas contingent; and

(b) the level of cooperation, compliance and consultation required by the overseas contingent with the relevant international body, or the military, police and civilian authorities of the country or countries affected.

(3) Despite any agreement entered into, the overseas contingent remains at all times subject to the Constitution, this Act and the other laws of Vanuatu.

(4) Any agreement dealing with an overseas contingent that is in force on the commencement of this section is taken to be an agreement entered into under this section.

34B. Appointment of Contingent Commander

(1) The Commissioner must, in writing, appoint a member of an overseas contingent to be the Contingent Commander.

(2) To avoid doubt, the Contingent Commander as a member of the Force remains subject to the provisions of this Act.

34C. Minister's directions

(1) Subject to subsection (2), the Minister may, in writing, direct the Commissioner to report to the Minister on matters of national interest.

(2) The Minister must not make a direction that concerns the operations of an overseas contingent.

34D. Duties of contingent members

(1) The Commissioner may, in writing, direct any member of an overseas contingent to comply with any order, regulation or instruction issued by the relevant authority of a country involved in the same operation as the overseas contingent. The direction may be given to an individual or by general order.

(2) It is an offence against discipline for a person to fail to comply with a direction given under subsection (1) (see Part 5 for disciplinary procedures).

34E. Extension of service

After consultation with the Minister, the Commissioner may, in writing, direct that the period of service of a member of an overseas contingent be extended for a period not exceeding one year.

34F. Appointment of special constables

(1) The Commissioner may, with the written approval of the Minister, appoint a person to be a special constable in an overseas contingent for a specified period, subject to the budget allocated for that purpose.

(2) Before being posted to an overseas contingent, a special constable must complete a training program approved by the Commissioner.

(3) A special constable is to be paid such salaries, allowances and other benefits as are applicable to a constable.

34G. Recognition of service

The President may confer honors, awards or service medals on any member of an overseas contingent who has rendered long, brave or conspicuous service.

34H. Mobile Reserve Unit

(1) The Mobile Reserve Unit is established as an auxiliary to the Mobile element of the Force.

(2) The Commissioner may, subject to appropriate training, and character clearances as must be prescribed, approve a citizen of Vanuatu to be a member of the Unit.

(3) The Commissioner may appoint members of the Unit:

(a) to serve in overseas peacekeeping mission: or

(b) to assist the Force to carry out its duties under section 22B under the same conditions provided under that section.

PART 4 – POWERS AND DUTIES

35. General powers and duties of members of the Force

(1) Every member shall exercise such powers and perform such duties as are by or under a law of the Republic of Vanuatu conferred or imposed upon him or her, and shall obey all lawful directions in respect of the execution of his or her office which he may from time to time receive from his or her superiors in the Force.

(2) Every member shall be considered to be on duty at all times and may at any time be detailed for duty in any part of Vanuatu.

(3) It shall be the duty of every member to promptly obey and execute all orders and warrants lawfully issued to him or her by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice and to apprehend all persons that he or she is legally authorised to apprehend and for whose apprehension sufficient ground exists.

36. Use of reasonable force

Any member of the Force may use all such force as may be reasonably necessary in order to prevent crime or to effect or assist in effecting a lawful arrest.

37. Power to take photographs, fingerprints, etc.

(1) In this section, the word, "description" shall be construed as including a reference to photographs, measurements, fingerprints and footprints.

(2) Any member of the Force may cause to be taken for use and record in the registry of the Force, the description of any person –

(a) who is in lawful custody for any offence, or

(b) who has appeared before a court in answer to a summons for any offence punishable by imprisonment and been convicted.

(3) On the acquittal of any person whose description has been taken under the provisions of this section such description shall be destroyed.

(4) Any person –

(a) who is in lawful custody for any offence; or

(b) who has appeared before a court in answer to a summons for any offence punishable by imprisonment;

and refuses to allow his or her description to be taken shall be guilty of an offence and liable on conviction to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment, and after conviction the court may order that reasonable force may be used by a member to take such description.

38. Power to inspect licences

(1) It shall be lawful for any member to stop and detain any person whom he or she sees doing any act for which a licence or permit is required under the provisions of any law for the time being in force and to require such person to produce his or her licence or permit.

(2) Any person who fails to produce such licence or permit when called upon to do so by a member may be arrested without a warrant unless he or she gives his or her name and address or otherwise satisfies the member that he or she will duly answer any summons or other proceedings which may be taken against him or her.

39. Power to lay informations

It shall be lawful for any member to lay any information before a court of competent jurisdiction and apply for a summons, warrant, search warrant or such other legal process as may by law issue against any person.

40. Non-liability for act done in good faith

No suit or other legal proceedings for damages shall be instituted in any court of law against the Minister or the Commissioner or the Commission or any other member of the Force or any other person for or on account of or in respect of any act, matter or thing done or purported to be done or omitted to be done, in good faith, in the performance or exercise of any duty or power imposed or conferred by or under this Act; and the provisions of this section shall extend to the protection from liability as aforesaid of any person deputed by delegation under this Act or under any other law for the time being in force to perform or exercise any such duty or power aforesaid.

41. Power to erect barriers etc.

(1) It shall be lawful for any senior officer or any subordinate officer acting under the authority of a senior officer, if he or she considers it necessary for the maintenance and preservation of law and order, the prevention or detection of crime, the apprehension of offenders or the protection of life or property to erect or place barriers in or across any road or street or in any other public place in such manner as he or she may consider fit.

(2) Any member may take all such reasonable steps as he or she considers necessary to prevent any person or vehicle from passing any barrier erected or placed under the provisions of subsection (1) and any such person or the driver of any such vehicle, who fails to comply with any reasonable signal made by a member under the provisions of this subsection, shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

42. Duty of Force to keep order in public places

(1) It shall be the duty of the Force –

(a) to regulate and control traffic;

(b) to divert all or any particular kind of traffic, when it is in the public interest to do so;

(c) to keep order on public roads, streets, thoroughfares and landing places, and at other places of public resort or places to which the public have access; and

(d) to prevent obstructions on the occasion of assemblies and processions on the public roads and streets, and in any case when any road, street, thoroughfare or landing place may be thronged or may be liable to be obstructed.

(2) Every person who disobeys a lawful order given to him or her by any member or who otherwise obstructs a member in the performance of his or her duty shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(3) Any person who contravenes subsection (2) may be arrested without a warrant and detained in accordance with the law unless he or she gives his or her name and address and otherwise satisfies the member that he or she will duly answer any summons or other proceedings which may be taken against him or her.

43. Person furnishing false name and address

(1) Any person who having been asked by a member acting in the execution of his or her duty, for his or her name and address, refuses to do so or gives to such member a

false name or address shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(2) Any person who contravenes subsection (1) may be arrested without a warrant and detained in accordance with the law.

44. Disposal of unclaimed property

It shall be the duty of every member to take charge of all unclaimed property, and such unclaimed property shall then be disposed of or otherwise dealt with in accordance with any order made under this Act.

45. Power to enter premises, vehicles, boats, etc. in case of fire or other threat to life or property

(1) Whenever any member has reasonable grounds for believing that any building is on fire or that there is any other serious threat to life or property therein, he or she may enter and if necessary break into such building or any other building or land adjoining or near thereto, without the consent of the owner or occupier thereof and may do all such acts and things as he or she may consider necessary for extinguishing the fire or such other threat or for protecting the building from the same or for rescuing any person or property therein.

(2) A member may likewise enter or board or break into any motor vehicle, boat or aircraft which he or she has reasonable grounds for believing to be on fire or to be or likely to be a serious threat to life or property or contain something which may pose such a threat and to enter any land or other property without the consent of the owner or occupier for the purpose of entering, boarding or breaking into such motor vehicle, boat or aircraft and extinguishing a fire or dealing with any other threat to life or property.

45A. Persons to be informed of grounds of arrest

(1) A Police Officer who arrests a person for an offence must inform the person, at the time of the arrest, of the offence for which he or she is being arrested.

(2) It is sufficient that the person is informed of the substance of the offence in a language that he or she understands.

(3) Subsection (1) does not apply to the arrest of the person if the person's actions make it impracticable for the Police Officer making the arrest to inform the person of the offence for which he or she is being arrested.

45B. Internal investigations

(1) The Minister may from time to time appoint in writing 3 persons to carry out internal investigations on any matter affecting a member or the Force for such period as he or she may determine.

(2) At least 1 person appointed under subsection (1) must have legal qualification from a recognised tertiary institution and 2 other persons are retired members of the Force.

(3) A report of the findings of the investigations must be produced to the Minister within 21 days after the completion of the report.

(4) The Minister is to provide a copy of the report to the Commissioner within 7 days after receiving such report.

(5) The Minister is to determine the terms and conditions of the appointment of the persons under this section.

(6) To avoid doubt, the term of appointment of a person under this section ceases immediately after the report of the findings of the investigation is produced to the Minister under subsection (3).

PART 4A – COMMUNITY POST

45C. Establishment of Community Post

The Commissioner may establish a community post within defined geographical areas for purposes of providing security services to persons within that area.

45D. Appointment of member of a Community Post

The Commissioner may appoint suitable persons to be members of a Community Post to serve within defined geographical areas.

45E. Powers of members of a Community Post

(1) The Commissioner may vest such powers as provided under Part 4 of this Act to any member of a Community Post.

(2) A power vested under subsection (1),is not limited to any geographical area in respect of which that member is appointed.

45F. Removal of a member of a Community Post

(1) If the Commissioner, after inquiry, is satisfied that a member has failed to meet reasonable performance standards, the Commissioner may remove that person as a member of a Community Post.

(2) Whenever an inquiry is made in respect of the performance of a member of a Community Post under this section, that member must be informed in writing of the allegations made against him or her and he or she may within 14 days, respond in writing to the Commissioner, on the allegations.

(3) Before reaching a decision, the Commissioner must take into account any response made under subsection (2).

45G. Regulations relating to members of a Community Post

(1) The Minister may, on the recommendation of the Commission, prescribe the following matters in relation to the members of a Community Post:

(a) the functions to be discharged by the members of a Community Post; and

(b) the qualification for membership of each Community Post; and

(c) the seniority of the members of a Community Post; and

(d) the process and the requirements for promotion of the members of a Community Post; and

(e) the structure of a Community Post; and

(f) the payment of services rendered by the members of a Community Post; and

(g) any other matter that is necessary to assist with the performance of the functions of the members of the Community Post and its management.

PART 5 – DISCIPLINE

Offences by Members Triable by the Courts

46. Mutiny

Any member who –

(a) takes part in any mutiny or intended mutiny amongst the Force; or

(b) knowing of any mutiny amongst the Force does not use his or her utmost endeavours to suppress such mutiny; or

(c) knowing of any intended mutiny amongst the Force does not without delay give information thereof to his or her superior officer;

shall be guilty of an offence and liable on conviction to a term of imprisonment not exceeding 5 years.

47. Failing to suppress riot

Any member who, being present at any assembly tending to riot, does not use his or her utmost endeavours to suppress such assembly shall be guilty of an offence and liable on conviction to a term of imprisonment not exceeding 3 years.

48. Desertion

(1) Any member who –

(a) deserts from the Force; or

(b) persuades, procures, assists or attempts to persuade, procure or assist any member of the Force to desert; or

(c) knowing that any member has deserted or intends to desert does not without delay give information thereof to his or her superior officer;

shall be guilty of an offence and liable on conviction to a term of imprisonment not exceeding 3 years.

(2) No member shall be found guilty of the offence of desertion unless the court is satisfied that there was an intention on the part of such member not to return to the Force.

49. Power of arrest without warrant

A member who is reasonably suspected of committing any of the offences prescribed by section 46, 47 or 48 may be arrested without warrant and detained in accordance with the law.

Disciplinary Offences by Members of the Force

50. Participation in politics

(1) It shall be an offence against discipline for any member to –

(a) speak, broadcast or ask questions in public on any political matter other than in the course of his or her duties;

(b) communicate with the press other than in the course of his or her duties or publish any book, article or pamphlet on any political matter;

(c) canvas or collect funds in support of any political candidate, body or cause;

(d) propose, sponsor or support in any public way a candidate for election to any public office;

(e) hold any post in or otherwise take part in the management of any political organisation; or

(f) take any part in any other way in political activities.

(2) If any question arises as to whether any particular matter is political for the purposes of this section, such question shall be decided upon by the Commission at the request of the Commissioner and its decision shall be final.

(3) Nothing in this section shall be construed as placing any restraint upon the right of any member to exercise his or her right to vote in any national or local election.

51. Other employment or office

It is an offence against discipline if a member is engaged in any other employment or office outside the duties of his or her office.

52. Membership of trade union or allied body

(1) It shall be an offence against discipline for any member to be or to become a member of any trade union or body or association affiliated to a trade union.

(2) If any question arises as to whether any body is a trade union, body or association to which this section applies, the question shall be decided upon by the Commission at the request of the Commissioner and its decision shall be final.

(3) For the purpose of enabling members to bring to the notice of Government any matter affecting their welfare and efficiency, other than questions of discipline or promotion, the Minister may, if he thinks fit, make rules for the establishment and regulation of 1 or more police associations and nothing in this section shall prohibit a member of the Force from joining and being a member of an association so established.

53. Strikes by members etc.

(1) It shall be an offence against discipline for a member to take part in a strike or other associated action intended or calculated to –

(a) affect the pay, pensions or other conditions of service; or

(b) obstruct or otherwise influence the lawful exercise of any of the functions of the Force as prescribed by section 4.

(2) Nothing in this section shall prevent the presentation to the Commissioner of any petition on a matter of welfare or efficiency by a police association under the provisions of section 52(3).

54. Accepting gifts

It shall be an offence against discipline for any member to accept any gift of money or moneys-worth offered as payment for any service rendered or promised.

55. Loss or damage to arms and accoutrements

It shall be an offence against discipline for any member to pawn, sell, lose by neglect, make away with, wilfully damage or misuse any arms, ammunition, accoutrement, uniform or other appointment supplied to him or her or any other government property committed to his or her charge and such member may, upon conviction and in addition to or in lieu of any other punishment, be ordered to make good the amount of such loss or damage and such amount may be recovered by stoppage from his or her pay.

56. Absence from duty

It shall be an offence against discipline for any member to absent himself or herself from duty or his or her place of duty without reasonable cause or excuse and a member found to have

committed such offence shall in addition to any other punishment, forfeit his or her pay for the period when he or she was so absent.

57. Other offences against discipline

In addition to the offences against discipline provided for by this Act, the Minister may prescribe what other acts and omissions by members of the Force shall constitute offences against discipline.

Disciplinary Proceedings Against Subordinate Officers

58. Disciplinary proceedings against subordinate officers

A subordinate officer who commits any offence against discipline provided for by this Act or by any regulations made hereunder shall be dealt with and punished in accordance with sections 59 to 65.

59. Disciplinary powers of senior officers

(1) A senior officer may inquire into the truth of a charge of an offence against discipline alleged to have been committed by a subordinate officer and, if he or she finds that the charge is proved, may impose on the defaulter one of the following punishments –

(a) a fine not exceeding 8 days pay;

(b) confinement to barracks for a period not exceeding 14 days with or without extra duties not exceeding 2 hours daily; or

(c) reprimand.

(2) The punishments prescribed by subsection (1) and by section 62 are sufficient in themselves and only 1 such punishment may be awarded for each offence against discipline.

60. Rights of defaulter

A defaulter shall not be found to have committed an offence against discipline under the provisions of section 59 unless the charge has been read to him or her, and the hearings made in his or her presence and he or she has been given sufficient opportunity to cross examine the witnesses called against him or her, to give evidence or make a statement himself or herself and to call witnesses on his or her behalf.

61. Remission of records to Commissioner for sentence

In any case where a senior officer finds that the charge of an offence against discipline has been proved but considers that the circumstances of the case merit a more severe punishment than he or she is empowered to impose under the provisions of section 59 he or she shall forward the record of his or her inquiry to the Commissioner for his or her decision in accordance with section 62.

62. Special disciplinary powers of the Commissioner

(1) The Commissioner may, when a record of an inquiry has been forwarded to him or her in accordance with section 61 impose any of the punishments prescribed by that section or any of the following punishments –

(a) dismissal from the Force; or

(b) reduction in rank; or

(c) loss of seniority; or

(d) a fine not exceeding 15 days pay.

(2) The Commissioner may in respect of any findings made by a senior officer under the provisions of section 59(1) whether or not he or she has received an appeal –

(a) confirm, vary or quash any finding or punishment imposed as the result of such inquiry; or

(b) order the holding of a fresh inquiry by a senior officer other than the officer who held the original inquiry.

(3) The Commissioner shall not increase any punishment imposed at the conclusion of the original inquiry without giving the defaulter the opportunity of being heard.

63. Appeals by subordinate officers

(1) A subordinate officer who has been found to have committed an offence against discipline by a senior officer under section 59(1) may, within 7 days of such finding, appeal to the Commissioner against the finding or the punishment imposed or both such finding and punishment.

(2) A subordinate officer who has appealed to the Commissioner under the provisions of subsection (1) and who is dissatisfied with the decision of the Commissioner may, within 7 days of being notified of such decision appeal to the Commission which may confirm, vary or quash such decision. The decision of the Commission shall be final.

(3) Neither the Commissioner nor the Commission shall increase any punishment on appeal without giving the defaulter an opportunity of being heard.

64. Interdiction from duty of subordinate officers

(1) The Commissioner may at any time interdict from duty a subordinate officer pending –

(a) an inquiry under section 59(1) into any disciplinary offence of which he or she is charged; or

(b) a trial or inquiry into any offence under this or any other Act for the time being in force of which he or she is charged before a Court.

(2) A subordinate officer who has been interdicted shall, for the period of such interdiction, cease to exercise the powers, privileges and benefits of his or her office but shall continue subject to the same responsibilities, discipline and penalties and to the same authority as if he or she had not been interdicted.

(3) A subordinate officer who has been interdicted shall receive such proportion of his or her pay not being less than half as the Commissioner may decide. Upon termination of the period of interdiction, such outstanding proportion shall be –

(a) paid in full to the member if he or she is found not to have committed the offence for which he or she was interdicted, or any other offence arising out of the same set of facts; or

(b) paid in full or part to the member or otherwise disposed of at the discretion of the Commissioner if such member was found to have committed the offence for which he or she was interdicted or any other offence arising out of the same set of facts.

65. Dismissal and reduction in rank of subordinate officers following court conviction

(1) The Commissioner may reduce in rank or dismiss from the Force any subordinate officer who has been convicted by a court of any offence under this or any other Act, unless such member has successfully appealed from such finding.

(2) A subordinate officer may appeal against a reduction in rank or dismissal in the manner prescribed by section 63(2).

Disciplinary Proceedings against Senior Officers

66. Disciplinary proceedings against senior officers

A senior officer who commits an offence against discipline prescribed by this Act or by any regulations made hereunder shall be dealt with and punished in accordance with sections 67 to 71.

67. Disciplinary powers of the Commission

(1) A charge of an offence against discipline alleged to have been committed by a senior officer shall be reported by the Commissioner without unnecessary delay to the Commission which shall inquire into the truth of the charge.

(2) The Commission, if it finds the charge proved, may impose on the defaulter 1 of the following punishments –

(a) dismissal from the Force;

(b) reduction in rank;

(c) loss of seniority;

(d) a fine not exceeding 15 days; or

(e) a reprimand.

(3) The punishments prescribed by subsection (2) are sufficient in themselves and only 1 such punishment may be awarded for each offence against discipline.

68. Rights of defaulter

A senior officer charged with an offence against discipline under the provisions of section 67 shall have the rights prescribed by section 60.

69. Appeals by senior officers

(1) A senior officer who has been found to have committed an offence against discipline in accordance with the provisions of section 67 may, within 7 days of such conviction, appeal to the Minister against the conviction or the punishment imposed or both conviction and punishment and the Minister shall confirm, vary or quash the conviction or punishment but shall not increase any punishment on appeal without giving the defaulter an opportunity of being heard.

70. Interdiction from duty of senior officers

(1) The Minister may, on the recommendation of the Commissioner and at any time, interdict from duty any senior officer pending –

(a) an inquiry under section 67(1) into any disciplinary offence of which he or she is charged; or

(b) a trial or inquiry into any offence under this or any other Act for the time being in force of which he or she is charged before a court.

(2) A senior officer who is interdicted shall, for the period of such interdiction, cease to exercise the powers, privileges and benefits of his or her office but shall continue subject to the same responsibilities, discipline and penalties and to the same authority as if he or she had not been interdicted.

(3) A senior officer who is interdicted shall receive such proportion of his or her pay not being less than half as the Minister may decide. Upon termination of the interdiction, such outstanding proportion shall be –

(a) paid in full to the member if he or she is found not to have committed the offence for which he or she was interdicted, or any other offence arising out of the same set of facts; or

(b) paid in full or part to the member or otherwise disposed of at the discretion of the Minister if such member was found to have committed the offence for which he or she was interdicted or any other offence arising out of the same set of facts.

71. Dismissal and reduction in rank of senior officers following court conviction

(1) The Commission may, on the recommendation of the Commissioner, reduce in rank or dismiss from the Force any senior officer who has been convicted by a court of any offence under this or any other Act, unless such member has successfully appealed from such conviction.

(2) A senior officer may appeal against a reduction in rank or dismissal in the manner provided for in section 69.

General Provisions in Respect of Disciplinary Proceedings

72. Power of arrest and confinement

(1) In this section, the word "offence" shall mean any offence against discipline as well as any offence triable by a court.

(2) Any member may arrest without warrant any other member not being of his or her own or higher rank who is accused of any offence under the provisions of this Act.

(3) Any member effecting an arrest under this section shall immediately bring the accused person before a senior officer or, in the absence of such officer, before the most senior member readily accessible who shall cause the case to be heard without delay.

(4) Every member arrested for any offence under this Act may be confined to his or her quarters or in any building set apart as a guard room or cell.

73. Summary admonishment and reprimand

Notwithstanding anything to the contrary contained in this Act, the Commissioner may summarily administer an admonishment or reprimand to any member in the case of minor misconduct.

74. Recovery of fines

(1) All fines imposed on a member in respect of offences against discipline under the provisions of this Act may be recovered by stoppage from his or her pay.

(2) The amount of stoppage in respect of any fine or for any other cause authorised by the provisions of this Act shall be in the discretion of the officer by whom the fine was imposed but shall in no case exceed one-half of the member's monthly pay; and whenever more than one order of stoppage is in force against the same member so much only of his or her pay shall be stopped as shall leave him or her at least one-half of his monthly pay.

75. Establishment of Police Fund

(1) All fines imposed under the provisions of this Act for any offence against discipline shall be paid to the Government and shall be placed to the credit of a fund to be called the "Police Fund".

(2) Payment shall not be made from the Police Fund except on the authority of the Commissioner.

(3) The Commissioner may, in his or her discretion sanction payments from the Police Fund for any of the following purposes –

(a) assistance to the wives or families of deceased members below the rank of inspector or to any such members discharged from the Force as being medically unfit for further service;

(b) contribution towards prizes to be given at athletic meetings, assault at arms and similar events organised by or for the benefit of the Force;

(c) purchase of ammunition for the encouragement of range practice among members;

(d) payments to members below the rank of inspector as rewards for meritorious acts of service in the execution of duty; if such payments are not met from public funds;

(e) expenditure for the benefit and advancement of authorised recreation and sport and other branches of police activity organised within the Force;

(f) any other purpose which the Commissioner considers to be for the general welfare of the members of the Force.

PART 6 – GENERAL OFFENCES

76. Unlawful possession of articles supplied to members of the Force

Any person not being a member who –

(a) is found in possession of any article whatsoever which has been supplied to any member for the execution of his or her duty, and who fails to account satisfactorily for the possession thereof; or

(b) without due authority purchases or receives any such article from any member; or

(c) aids or abets any member to sell or dispose of any such article,

shall be guilty of an offence and liable to a fine not exceeding VT 20,000 or to imprisonment not exceeding 1 year or to both such fine and imprisonment.

77. Duty to assist police

(1) It shall be lawful for any member to call upon any person to assist him or her if, whilst acting in the execution of his or her duty, he or she is assaulted or resisted or in danger of being assaulted or resisted.

(2) Any person who assists any member in accordance with the provisions of subsection (1) shall be considered to have the rights and protection afforded to a member under the provisions of this Act or any other law for the time being in force.

(3) Any person, who is called upon to assist a member under the provisions of subsection (1) and who, without reasonable excuse refuses or neglects to render assistance to the best of his or her ability, shall be guilty of an offence and liable on conviction to a fine not exceeding VT 10,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

78. Causing disaffection amongst members

Any person who causes or attempts to cause or does any act calculated to cause disaffection amongst members of the Force or induces or attempts to induce or does any act calculated to induce any member to withhold his or her service or to commit any breach of discipline shall be guilty of an offence and liable to imprisonment for a period not exceeding 2 years.

79. Disorderly conduct in police station etc.

Any person who, in any police station, police office or cell, or in any part of a police compound to which the public have access, is guilty of any riotous, indecent, disorderly or insulting behaviour shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

PART 7 – MISCELLANEOUS

80. Proof of previous convictions

(1) In this section, any reference to fingerprints shall be construed as including a reference to palmprints.

(2) In any inquiry, trial or other proceedings under any law for the time being in force, a previous conviction of an offence may be proved, in addition to any other mode provided by any law for the time being in force –

(a) by an extract certified under the hand of the officer having the custody of the records of the court in which such conviction was imposed, to be a true copy of the sentence or order; or

(b) by a certificate signed by the officer in charge of the prison in which the punishment or any part thereof was inflicted; or

(c) by production of the warrant of commitment under which the punishment was suffered:

Provided that, in each of the cases set out in the preceding paragraphs, evidence is also produced to identify the accused person with the person so convicted; or

(d) by a certificate in the form prescribed in Schedule 2 hereto, given under the hand of a member appointed by the Minister in that behalf who shall have compared the fingerprints of a person previously convicted and such certificate shall be prime facie evidence of all the facts therein set forth provided that it is produced by the person who took the fingerprint of the accused.

81. (*Repealed*)

81A. Transitional arrangements

(1) This section applies to a person who was employed at the Department of the Vanuatu Police Force by the Public Service Commission immediately before the commencement of this Act.

(2) On and after the commencement of this Act, the person is to continue to be employed at the Department of the Vanuatu Police Force by the Police Service Commission:

(a) on the same terms and conditions; and

(b) in the same position; and

(c) with the same accrued or accruing entitlements.

82. Regulations

The Minister may by Order make such rules and regulations as may seem to him or her necessary for the good order and government of the Force and for carrying into effect any of the purposes or provisions of this Act and, without derogation from the generality of the foregoing, for any of the following purposes –

(a) the conditions of service of the Force and the various grades, ranks and appointments therein;

(aa) the provision of roles or functions for the comprising elements of the Force;

(ab) the rights of person being arrested, interviewed or held in custody.

(b) the establishment of pension and provident funds for members and their dependents;

(c) the granting of gratuities in accordance with section 31(4);

(ca) the rates of and eligibility of members and other persons to compensation, pension or gratuity under section 32A;

(d) the duties to be performed by members, and where necessary, the fees to be charged for special duties performed and for their guidance in the discharge of such duties;

(e) the pay, retirement benefits, health and insurance scheme and allowances of members;

(f) the description and issue of arms, ammunition, accoutrements, uniforms and necessaries to be supplied under this Act;

(g) the disposal of any unclaimed property;

(h) the discipline of members;

(ha) the pay, allowances, benefits and compensation of members of overseas contingents;

(hb) the discipline of members of overseas contingents; and

(i) all other matters which are by this Act required to be provided or prescribed.

83. Transfer of Police Officers to the Correctional Services Department

(1) On the commencement of this Act, the Police Commissioner is to transfer to the Department of Correctional Services for a period of six months, such members of the Vanuatu Police Force, who before the commencement of this Act have been undertaking prison services, to enable the Department to administer and maintain prisons.

(2) A member of the Vanuatu Police Force who is transferred to the Department of Correctional Services under subsection (1) is:

(a) subject to the direction and control of the Director of that Department; and

(b) subject to the same terms and conditions of employment he had before the commencement of this Act.

(3) A member referred to in subsection (1), is to continue with his employment as a member of the Vanuatu Police Force, if after a period of six months with the Department, he or she is not given a permanent employment at that Department by the Public Service Commission.

84. Transfer of Assets

The Minister may transfer any assets of the Vanuatu Police Force to the Department of Correctional Services.

SCHEDULE 1

(Section 18)

POLICE IDENTITY CARD

POLICE

This is to certify that
Il est certifié que

…….....
is a member of the Vanuatu Police Force
est un membre du corps de Police de Vanuatu.

.....
Commissioner/ Commandant

Date:……. …….
Holder/Titulaire

SCHEDULE 2

(Section 80)

VANUATU POLICE DE VANUATU

CERTIFICATE OF PREVIOUS CONVICTIONS
EXTRAIT DU CASIER JUDICIAIRE

I hereby certify that I have compared the finger impressions of ..... contained on fingerprint from number ..... and taken at ..... on ..... by ..... with records held at the Criminal Registry of the Vanuatu Police Force, and have found them to be identical with the finger impression of ..... .The following convictions are recorded against this person, which are a true copy of the records held at this office.

Je soussigné ....., certifie avoir comparé les empreintes digitales de ..... prélevées à..... le ..... par ..... et figurant sur le formulaire N° ..... avec celles de fiches de l'Identité Judiciaire de la Police de Vanuatu, et constaté qu'elles sont identiques à celles de ..... Les condamnations suivantes, dont l'interessé a fait l'objet, sont une copie conforme des Fiches détenues au Fichier de notre Bureau.

Signed/Signé: .....

Fingerprint form no.: Formulaire d'empreintes N°.:	Date of conviction: Date des condamnations:	Court: Tribunal:	Offence of which convicted: Délit:	Sentence: Condamné à:	Name in which convicted: Nom sous lequel, l'intéressé a été condamné:

Table of Amendments (since the Revised Edition 1988)

1	*Amended by Acts 1 of 1991, 19 of 2000, 22 of 2010*
1A – 1C	*Inserted by Act 22 of 2010*
3	*Substituted by Act 22 of 2010*
4(1)	*Amended by Act 22 of 2010*
4(2)(a) – (c)	*Amended by Act 22 of 2010*
4(2)(e)	*Substituted by Act 22 of 2010*
4(2)(f) and (g)	*Inserted by Act 22 of 2010*
4(3)	*Amended by Act 22 of 2010*
4(4)	*Inserted by Act 12 of 1994; Substituted by Act 19 of 2000*
4(5)	*Inserted by Act 19 of 2000*
5(1)	*Amended by Act 22 of 2010*
5(1)(b)	*Amended by Act 22 of 2010*
6(1)(a) and (b)	*Amended by Act 22 of 2010*
7(2)(b)	*Amended by Act 22 of 2010*
7(3)	*Amended by Act 22 of 2010*
7A(1A)	*Inserted by Act 19 of 2013*
7A(7)(a) – (b)	*Substituted by Act 3 of 2015*
7A(7)(c)	*Repealed by Act 3 of 2015*
Part 2A	*Inserted by Act 22 of 2010*
Part 3(title)	*Substituted by Act 22 of 2010*
8	*Repealed by Act 22 of 2010*
Part 3A(34A-34G)	*Inserted by Act 19 of 2000*
Part 3A (heading)	*Amended by Act 35 of 2017*
9	*Substituted by Acts 1 of 1991, 22 of 2010*
9A – 9I	*Inserted by Act 22 of 2010*
10	*Substituted by Act 22 of 2010*
10A	*Inserted by Act 22 of 2010*
11(1)	*Amended by Act 22 of 2010*
11(2)	*Amended by Act 22 of 2010*
13(1) and (2)	*Amended by Act 22 of 2010*
14(2)	*Amended by Act 22 of 2010*
15(2)	*Amended by Act 22 of 2010*
16(2)	*Amended by Act 22 of 2010*
17	*Substituted by Act 22 of 2010*
18	*Amended by Act 22 of 2010*
19(2)	*Amended by Act 22 of 2010*
20(a) and (b)	*Amended by Act 22 of 2010*
20(c)	*Inserted by Act 22 of 2010*
21(1) and (2)	*Amended by Act 22 of 2010*
22A – 22E	*Inserted by Act 22 of 2010*
23 (heading)	*Amended by Act 22 of 2010*
23(2)	*Amended by Act 22 of 2010*
24(1)	*Substituted by Act 22 of 2010*
25(1)	*Amended by Act 22 of 2010*
26(1)	*Amended by Act 22 of 2010*
27(1)	*Amended by Act 22 of 2010*
28(4)	*Inserted by Act 22 of 2010*
29	*Substituted by Act 22 of 2010*
30	*Amended by Act 22 of 2010*
31(1)(a) and (c)	*Amended by Act 22 of 2010*
31(4)(b)(i) – (iii)	*Amended by Act 22 of 2010*
31(3) and (4)	*Amended by Act 22 of 2010*
32	*Amended by Act 22 of 2010*
32A	*Inserted by Act 1 of 1991*
32A(1) – (4)	*Amended by Act 22 of 2010*
32A(6)(b)	*Substituted by Act 22 of 2010*
33(1)	*Amended by Act 22 of 2010*
34	*Amended by Act 22 of 2010*
Part 3B (heading)	*Inserted by Act 35 of 2017*
34D(2)	*Amended by Act 22 of 2010*
34H	*Inserted by Act 22 of 2010*
Part 3AA	*Inserted by Act 22 of 2010*
Part 3AA	*Repealed by Act 16 of 2016*
35(1) and (3)	*Amended by Act 22 of 2010*
37(4)	*Amended by Act 22 of 2010*
38(1)	*Amended by Act 22 of 2010*
38(2)	*Amended by Act 22 of 2010*
40	*Amended by Act 22 of 2010*
41(1)	*Amended by Act 22 of 2010*
42(1) – (3)	*Amended by Act 22 of 2010*
43(1)	*Amended by Act 22 of 2010*
45(1) and (2)	*Amended by Act 22 of 2010*
45A and B	*Inserted by Act 22 of 2010*
Part 4A	*Inserted by Act 15 of 2018*
46(b) and (c)	*Amended by Act 22 of 2010*
47	*Amended by Act 22 of 2010*
48(1)(c)	*Amended by Act 22 of 2010*
50(1)(a) and (b)	*Amended by Act 22 of 2010*
50(3)	*Amended by Act 22 of 2010*
51	*Substituted by Act 22 of 2010*
55	*Amended by Act 22 of 2010*
56	*Amended by Act 22 of 2010*
59(1)	*Amended by Act 22 of 2010*
60	*Amended by Act 22 of 2010*
61	*Amended by Act 22 of 2010*
62(1) and (2)	*Amended by Act 22 of 2010*
64(1)(a) and (b)	*Amended by Act 22 of 2010*
64(2) and (3)	*Amended by Act 22 of 2010*
64(3)(a) and (b)	*Amended by Act 22 of 2010*
70(1)(a) and (b)	*Amended by Act 22 of 2010*
70(2) and (3)	*Amended by Act 22 of 2010*
70(3)(a) and (b)	*Amended by Act 22 of 2010*
72(2) and (4)	*Amended by Act 22 of 2010*
74(1) and (2)	*Amended by Act 22 of 2010*
75(3)	*Amended by Act 22 of 2010*
76(a)	*Amended by Act 22 of 2010*
77(1)	*Amended by Act 22 of 2010*
77(3)	*Amended by Act 22 of 2010*
78	*Amended by Act 22 of 2010*
81	*Repealed by Act 12 of 2006*
81A	*Inserted by Act 22 of 2010*
82	*Amended by Act 22 of 2010*
82(aa) and (ab)	*Inserted by Act 22 of 2010*
82(ca)	*Inserted by Act 1 of 1991*
82(e)	*Amended by Act 22 of 2010*
82(ha),(hb)	*Inserted by Act 19 of 2000*
83	*Inserted by Act 12 of 2006*
84	*Inserted by Act 12 of 2006*