

CHAPTER 164**POLICE ACT**

To regulate the organization, discipline and duties of the Malta Police Force.

10th February, 1961

ORDINANCE II of 1961, as amended by: Legal Notices: 46 of 1965, 148 of 1975; Acts: VIII of 1982, XIII of 1983, VIII and X of 1990; Legal Notice 43 of 1996; Acts XIII and XXIII of 2002; Legal Notice 211 of 2004; Act XVI of 2006; and Legal Notice 410 of 2007.

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PART I

GENERAL

Short title.
Substituted by:
XIII. 2002.4.

Interpretation.
Amended by:
L.N. 46 of 1965.
Substituted by:
XIII. 2002.4.
Cap. 9.

1. The short title of this Act is the Police Act.
2. In this Act, unless the context otherwise requires -
 - "appropriate consent" shall have the same meaning assigned to it by article 350 of the Criminal Code;
 - "Commissioner" means the Commissioner of Police;
 - "Internal Affairs Unit" shall have the same meaning assigned to it by article 55(1);
 - "the Academy" means the Police Academy established by article 103;
 - "the Force" means the Malta Police Force;
 - "the Malta Police Association" means the police association designated by that name and existing on the coming into force of this Act;
 - "Gazetted Officer" means any police officer of or above the rank of Inspector;
 - "member of the Force" means any police officer other than the Commissioner;
 - "Minister" means the Minister responsible for the Police;
 - "non-intimate sample" shall have the same meaning assigned to it by article 350 of the Criminal Code;
 - "Police" means the Malta Police Force;
 - "police officer" means any person serving in the Force and includes the Commissioner;
 - "premises" means any place, vehicle, vessel, aircraft, seacraft, including an off-shore installation, or any temporary or moveable structure;
 - "prescribed" means prescribed by regulations made under this Act;
 - "protected witness" means a person admitted to a witness protection programme under article 75(1).

PART II

THE MALTA POLICE FORCE

TITLE I

CONSTITUTION

The Malta Police
Force.
Substituted by:
XIII. 2002.4.

3. There shall continue to be a police force known as Police Force.

4. The main objectives of the Force are -

- (a) to preserve public order and peace, to prevent the commission of offences, to promote and enforce the observance of the laws, as a first guarantee of the rights of all persons in Malta, even before action is needed through the judicial system to repress, sanction or remedy any breach;
- (b) to respond immediately to any request for the protection and intervention of the law;
- (c) to apply the law without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status;
- (d) to promote the orderly and peaceful coexistence of all persons in Malta, paying due attention not only to private property rights but also to public property;
- (e) to seek to protect the environment as part of the common good;
- (f) to assist, within reasonable limits, any person seeking the help of a police or other public officer even though the ultimate responsibility to provide such help may not lie with the Force;
- (g) to perform honestly and effectively all those duties assigned to it by this Act or by any other law.

Objectives.
Substituted by:
XIII. 2002.4.

5. (1) There shall be a Commissioner of Police who shall be appointed by the Prime Minister and shall have the command, direction, management and superintendence of the Force.

Commissioner and other officers.
Amended by:
L.N. 46 of 1965.
Substituted by:
XIII. 2002.4.

(2) The Commissioner of Police shall be assisted by such Deputy Commissioners, Assistant Commissioners and such other police officers of such ranks as may from time to time be approved by the Prime Minister.

(3) The Commissioner shall represent the Force in any judicial proceedings.

(4) Any act or thing which may be done, ordered or performed by the Commissioner may, subject to the orders and directions of the Commissioner, be done, ordered or performed by the Deputy Commissioner or an Assistant Commissioner.

TITLE II

APPOINTMENTS AND CONDITIONS

6. The appointment of all police officers shall be subject to such conditions, requirements and standards as may be prescribed by this Act or by regulations or orders made under this Act.

Appointments.
Substituted by:
XIII. 2002.4.

7. (1) The Force may engage a number of reserve constables, who may be considered as suitable to perform certain police work.

Reserve constables.
Substituted by:
XIII. 2002.4.

(2) A reserve constable shall be paid an allowance for the work

done.

(3) The same laws, roles and regulations as apply to regular police officers shall apply *mutatis mutandis* to reserve constables who shall be entitled to join any professional association established under this Act.

Obedience.
Substituted by:
XIII. 2002.4.

8. (1) Every member of the Force shall, in the execution of his duties, promptly and without challenge obey the lawful orders of the Commissioner or of that member's other lawful superiors.

(2) An order given to a member of the Force by the Commissioner or by any other lawful superior of that member shall be deemed to be lawful, unless it is manifestly contrary to an express provision of law or a Court order.

Incompatible activities.
Amended by:
L.N. 148 of 1975.
Substituted by:
XIII. 2002.4.

9. Every police officer shall dedicate his whole time to the service of the Force and shall not carry on any other work unless prior permission in writing has been obtained from the Commissioner.

Assignment of duties.
Amended by:
L.N. 46 of 1965.
Substituted by:
XIII. 2002.4.

10. Every member of the Force shall be liable to be stationed at such places as the Commissioner may from time to time order:

Provided that the Commissioner shall not, without good cause, require a police officer to be stationed for indefinite periods to areas which, on account of distance, may cause undue hardship to the police officer or his family.

Training.
Amended by:
L.N. 46 of 1965.
Substituted by:
XIII. 2002.4.

11. (1) Every member of the Force shall undergo such training and undertake such tests or examinations as the Commissioner may from time to time establish.

(2) Tests may be carried out over a period of time on an assessment basis in order to appraise the efficiency and professional skill of members of the Force and may include routine medical tests to ascertain their suitability for the Force.

Status of Police officer.
Amended by:
XIII. 1983.5.
Substituted by:
XIII. 2002.4.

12. Every police officer shall be deemed to be a police officer at all times, subject to the payment of such compensation as may be due to him under any law or regulation or as the Commissioner may determine

Work schedules and benefits.
Substituted by:
XIII. 2002.4.

13. (1) The Commissioner shall assign an Assistant Commissioner to oversee the distribution of shift duties in a fair and equitable manner.

(2) The Assistant Commissioner so assigned shall also ensure that duties which attract benefits or additional remuneration shall be distributed equitably.

Grievances.
Substituted by:
XIII. 2002.4.

14. A police officer who believes that he is not being justly treated according to the provisions of article 13 may apply directly or through a professional association established under this Act, to the Assistant Commissioner who shall draw up a report to the Commissioner for his decision, unless a solution is found within a period of one month.

15. The Commissioner shall consult with the highest ranking officer in a branch or division, when transfer of personnel is to be effected.

Consultations on transfers.
Substituted by:
XIII. 2002.4.

16. (1) Before entering upon duties on appointment, all new or re-admitted members of the Force shall take the oath of office contained in the First Schedule.

Oath of office.
Substituted by:
XIII. 2002.4.

(2) The oath shall be taken and signed by all officers before a person duly empowered by law to administer an oath or before the Commissioner.

17. (1) Any member of the Force who wishes to resign or withdraw from his duties shall give to the Prime Minister such prior notice, not exceeding thirty days, as the Prime Minister may require by notice in the Gazette, of his intention to resign or withdraw himself from his duties, as the case may be, giving reasons therefor.

Resignation.
Amended by:
L.N. 46 of 1965.
Substituted by:
XIII. 2002.4.

(2) The Prime Minister shall grant permission to any member of the Force for resignation or withdrawal after the lapse of the period so required unless such member -

- (a) is the subject of disciplinary proceedings before the Public Service Commission which have not been determined; or
- (b) is charged with an offence triable by a court of criminal jurisdiction; or
- (c) has otherwise rendered himself liable to be dismissed or removed from the Force,

in which cases the Prime Minister may either delay his permission until the proceedings, trial or dismissal procedures have been concluded or grant such permission under specified conditions.

(3) Any member of the Force whose period of notice expires during the occurrence or apprehended occurrence of hostilities, internal disorder, or other grave emergency of any kind, may be retained and his service prolonged for such further period, not exceeding twelve months, as the Minister may direct.

18. It shall be lawful for the Prime Minister on the recommendation of the Public Service Commission to remove from his office at any time a police officer who -

Removal from office.
Amended by:
L.N. 46 of 1965.
Substituted by:
XIII. 2002.4.

- (a) has not given any indication of being or has ceased to be an efficient police officer; or
- (b) is incapable by reason of some infirmity of mind or body of discharging the duties of his office when such infirmity is likely to be permanent; or
- (c) it is considered, having regard to the conditions of the Force, the usefulness of the officer thereto, and all the circumstances of the case, should in the public interest no longer serve as a member of the Force.

Uniforms and stores.
Amended by:
L.N. 46 of 1965;
XIII. 1983.5;
VIII. 1990.3.
Substituted by:
XIII. 2002.4.

19. When any police officer shall cease to hold and exercise his office, he shall forthwith return to such person and at such time and place as the Commissioner shall direct all arms, ammunition, accoutrements, uniforms and other clothing and equipment which have been supplied to him at the public expense and which he is directed by the Commissioner to return.

(2) The Commissioner may direct any person who has custody or possession of any of the articles mentioned in subarticle (1) which were in the possession of a former police officer, to deliver up such articles at such place and to such person as the Commissioner may appoint.

Offences.
Amended by:
L.N. 46 of 1965.
Substituted by:
XIII. 2002.4.
Amended by:
L.N. 410 of 2007.

20. (1) Any person, who refuses or wilfully fails to comply with a direction given by the Commissioner under article 19, shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a term not exceeding three months, or to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94).

(2) Any person who through negligence fails to return any article as directed by the Commissioner under article 19 shall be liable to pay as a civil debt to the Force the value of the article not so returned.

Police Negotiating Board.
Substituted by:
XIII. 2002.4.

21. (1) There shall be a Police Negotiating Board for the consideration of questions raised by the official side or staff side, as hereunder defined, relating to hours of duty, pensions, leave, pay and allowances, and other conditions of service.

(2) The Police Negotiating Board shall have an official side, a staff side, and an independent chairman appointed by the Prime Minister.

(3) The official side shall be represented by the Permanent Secretary at the Ministry responsible for the Police, the Permanent Secretary at the Office of the Prime Minister, the Permanent Secretary at the Ministry responsible for finance, and the Permanent Secretary at the Ministry responsible for industrial relations.

(4) The staff side shall be composed of four members selected by the Malta Police Association:

Provided that if there is more than one such association, then the number of members shall be apportioned according to the relative strength of such associations, calculated on the basis of their membership.

(5) Consultants for either side shall be allowed to attend meetings of the Board.

Functions of Police Negotiating Board.
Substituted by:
XIII. 2002.4.

22. (1) The Police Negotiating Board shall submit its report to the Prime Minister on any question raised as provided in article 21(1).

(2) In case of disagreement with the report of the Board the staff side may request that the matter be referred to arbitration.

23. (1) In the case of such request being made the Prime Minister shall appoint three independent arbitrators who shall draw up a report to the Prime Minister on the matter referred to in article 22(2) and the said report shall be submitted by the Prime Minister to the Cabinet for its consideration.

Arbitration.
Substituted by:
XIII. 2002.4.

(2) In all cases envisaged in this article, the decision of the Cabinet shall be final, whether the matter is referred to arbitration or not.

TITLE III

PROFESSIONAL ASSOCIATIONS

24. (1) Senior ranks in the Force from the rank of inspector and above may form one professional association as provided in subarticle (2) and all other ranks may also form one such association.

Right to organise.
Substituted by:
XIII. 2002.4.

(2) A professional association may be formed for the promotion of the welfare and professional efficiency of the members of that association, including matters concerning their hours of duty, leave, pay and allowances, pensions and other conditions of service and rules of discipline in general, and for the defence of individuals in disciplinary proceedings.

25. (1) Membership of an association is voluntary.

Voluntary
membership.
Substituted by:
XIII. 2002.4.

(2) No person may be a member of any such association unless he is a member of the Force.

(3) Notwithstanding subarticle (2), an association may engage employees or advisers from outside the Force.

26. An association and every committee or board thereof shall be entirely independent of and not associated with any body outside the police service:

Independent
bodies.
Amended by:
L.N. 46 of 1965;
VIII. 1982.2.
Substituted by:
XIII. 2002.4.

Provided that the association may affiliate itself with similar international organisations of police forces, or to collaborate with an association in Malta the members of which are retired members of the Force.

27. A professional association shall be registered with the Commissioner who shall not refuse any such registration provided that the statute of the association is not in conflict with this Act and the association represents not less than fifteen per cent of the whole Force, or fifty per cent plus one more member of any of the categories listed in article 24(1).

Registration.
Amended by:
L.N. 46 of 1965;
VIII. 1982.2.
Substituted by:
XIII. 2002.4.

28. Until any other association is formed, the Malta Police Association shall continue as established with the Statute set forth in the Second Schedule.

Malta Police
Association.
Substituted by:
L.N. 46 of 1965;
XIII. 2002.4.

29. (1) The Malta Police Association may substitute its own statute for that in the Schedule. The statute intended to substitute that in the Schedule shall be submitted to the Commissioner to ensure that it conforms with this Act in which case he shall approve

Substitution of
Schedule.
Substituted by:
XIII. 2002.4.

the statute. When the statute has been so approved by the Commissioner it shall be submitted to the vote of the members of the association. Such substitution shall be determined by a majority of votes of all the members present and voting.

(2) When a Statute to substitute that in the Second Schedule has been approved by the Malta Police Association the Statute in the Second Schedule shall be deemed to be so substituted.

Work done in connection with a professional association.
Added by:
XIII. 2002.4.

30. The Commissioner may, compatibly with the exigencies of the service, consider that any work done by a professional police officer in connection with a professional association be part of his Police duties.

TITLE IV DISCIPLINE

Offences by police officers triable by the Courts.
Added by:
XIII. 2002.4.

- 31.** (1) Any police officer who -
- (a) being cognizant of any mutiny or sedition amongst the Force does not use his utmost endeavours to suppress such mutiny or sedition; or
 - (b) being cognizant of any intended mutiny or sedition amongst the Force does not without delay give information thereof to his superior officer; or
 - (c) being present at any assemblage tending to riot does not use his utmost endeavours to suppress such assemblage; or
 - (d) deserts; or
 - (e) persuades, procures, assists or attempts to persuade, procure or assist any police officer to desert; or
 - (f) knowing that any police officer has deserted or intends to desert does not without delay give information to his superior officer; or
 - (g) strikes, or offers violence to another officer, such officer being in the execution of his duty,

shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a period not exceeding two years

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

(3) The punishment provided in subarticle (1) shall apply unless the fact constitutes a more serious criminal offence under the Criminal Code or some other law, in which case such Code or such other law shall apply.

Cap. 9.

Causing disaffection.
Added by:
XIII. 2002.4.

- 32.** Any person who -
- (a) causes, or attempts to cause, or does any act calculated to cause disorder or division amongst police officers; or
 - (b) induces, or attempts to induce, or does any act

calculated to induce a police officer to withhold his service or to commit an offence against discipline, shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a period not exceeding one year.

33. Any member of the Force who commits any of the offences set out in the Third Schedule shall be guilty of an offence against discipline.

Disciplinary offences.
Added by:
XIII. 2002.4.

34. It shall be an offence against discipline for any police officer to be or to become a member of -

Membership in organisations.
Added by:
XIII. 2002.4.

- (a) any trade union, or any body or association affiliated to a trade union; or
- (b) any other body or association having among its objects anything mentioned in article 21 and not constituted and regulated pursuant to the provisions of this Act.

35. (1) Disciplinary proceedings shall be regulated according to article 110 of the Constitution.

Proceedings in general.
Added by:
XIII. 2002.4.
Amended by:
XXIII. 2002.26.

(2) Where any powers to exercise disciplinary action are delegated to the Commissioner in accordance with the provisions of article 110 of the Constitution, the Commissioner shall, unless otherwise stated in the instrument of delegation, follow the procedures and shall have the powers as mentioned in the following articles, unless the Commissioner has declared the case to be one which admits of no delay in which case the directives issued under article 40(2) shall apply.

36. (1) The Commissioner may collect the evidence personally or shall appoint a Gazetted Officer to collect the evidence and to recommend the relative punishment, if any, applicable in the case.

Proceedings before the Commissioner or Gazetted Officer.
Added by:
XIII. 2002.4.

(2) The Commissioner or the Gazetted Officer appointed as aforesaid, as the case may be, shall have the power and authority to hear evidence on oath, and a warrant signed by the Commissioner or the Gazetted Officer, as the case may be, shall be equivalent to a subpoena issued to compel the attendance of witnesses or to compel them to produce documents or other exhibits.

(3) No person summoned as a witness shall be obliged to answer any question or produce any document or other exhibit which may tend to incriminate him and every such person shall, in respect of any evidence given by him, be entitled to all the privileges to which a witness giving evidence in criminal proceedings before the Court of Magistrates. In the same manner, the witness shall have the same duties as if he were summoned in criminal proceedings before the Court of Magistrates.

(4) Any person who gives false evidence on oath before the Commissioner or a Gazetted Officer appointed as aforesaid shall be guilty of a criminal offence and shall be liable, on conviction, to a term of imprisonment not exceeding two years and to general interdiction.

Prosecution and
defence.
Added by:
XIII. 2002.4.

37. (1) In proceedings before the Commissioner or Gazetted Officer under article 36 -

- (a) an officer higher in rank than the officer charged shall be detailed to represent the prosecuting side and produce the evidence in support of the charge;
- (b) the officer charged may defend himself in person, or through the assistance of an advocate, legal procurator or another police officer of his own choice, or a representative of a police association, as mentioned in Title III of Part II of this Act, of which he is a member.

Evidence and pro-
cedural rules.
Added by:
XIII. 2002.4.

38. (1) The officer charged may summon witnesses on his own behalf and may cross-examine witnesses brought against him under the same conditions as prevail for the prosecution and for this purpose the Commissioner or Gazetted Officer, as the case may be, shall issue the subpoena for such witnesses.

(2) Before giving his decision and awarding punishment the Commissioner shall hear final submissions by the prosecution and the defence on the merits and on the punishment applicable if any.

(3) The rules of evidence applicable before the Court of Magistrates as court of criminal jurisdiction shall apply to proceedings under article 36 and summary notes of the proceedings shall be kept by the presiding officer, signed by him, and attached to the records of the case.

(4) The provisions of subarticle (2) shall also apply to the Gazetted Officer before submitting his opinion to the Commissioner as provided in article 39.

Delegated cases.
Added by:
XIII. 2002.4.

39. The Gazetted Officer appointed according to article 36(1) shall always forward to the Commissioner the relative file together with his opinion about the merits of the case and the punishment, if any, recommended by him and the Commissioner may adopt the recommendation or reform it, either by dismissing the case and acquitting the officer charged or by reducing the punishment, if any.

Rules for
investigations.
Added by:
XIII. 2002.4.

40. (1) The Commissioner may issue directives not inconsistent with the provisions of this Act regarding the procedures to be followed in the preliminary hearing into an allegation of a disciplinary offence.

(2) Notwithstanding any other provision of this Act, such directives may include provisions for immediate disciplinary measures by superior officers or a police officer in cases which admit of no delay.

Independence of
actions.
Added by:
XIII. 2002.4.
Cap. 9.

41. Any disciplinary proceedings taken against a member of the Force shall be without prejudice to any proceedings which may be taken against him under the provisions of the Criminal Code or any other law, and any proceedings taken under the Criminal Code or any other law shall be without prejudice to any disciplinary proceedings for the same fact.

- 42.** In proceedings before the Commissioner the following punishments may be awarded:
- (i) a fine not exceeding seven days' pay;
 - (ii) stoppage of weekly rest days, not exceeding seven days;
 - (iii) severe reprimand;
 - (iv) reprimand;
 - (v) caution.
- 43.** (1) The punishment of -
- (i) dismissal; or
 - (ii) requirement to resign, either forthwith or on such date as may be specified in the decision as an alternative to dismissal; or
 - (iii) reduction in rank or seniority; or
 - (iv) deferment of an increment or the reduction in the offender's rate of pay,
- shall only be recommended by the Public Service Commission in terms of article 110 of the Constitution.
- (2) The provisions of subarticle (1) do not preclude the Public Service Commission from imposing a punishment listed in article 42.
- 44.** All fines for offences against discipline shall be recovered from the pay due to the offender:
- Provided that the Commissioner may, after taking into consideration the number of dependants of the officer and other similar circumstances, order that the fine be paid by monthly instalments each not exceeding the equivalent of one day's salary of the offender or may give the offender the option to pay off the fine by working extra unpaid hours.
- 45.** If a police officer pawns, sells, loses by neglect, makes away with, or wilfully or negligently damages any arm, ammunition, accoutrement, uniform or other article supplied to him, or any property committed to his charge, he may, in addition to or in lieu of any other punishment, be ordered to make good, either partially or wholly, the value of such property or the amount of such loss or damage, as the case may be, and such value or such amount may be recovered by a deduction from his pay.
- 46.** Disciplinary proceedings before the Commissioner shall be instituted within three months from the date of the commission of the offence against discipline.
- 47.** An offence against discipline dealt with by the Commissioner shall cease to appear in the personal record of an officer after the lapse of two years if he is not found guilty of any other offence during such period.

Punishments.
Added by:
XIII. 2002.4.

Excluded
punishments.
Added by:
XIII. 2002.4.

Payment of fines.
Added by:
XIII. 2002.4.

Damage to or loss
of equipment.
Added by:
XIII. 2002.4.

Time limit for
internal
proceedings.
Added by:
XIII. 2002.4.

Cancellation from
personal record.
Added by:
XIII. 2002.4.

TITLE V

THE POLICE BOARD

Establishment of
Police Board.
Added by:
XIII. 2002.4.
Amended by:
XXIII. 2002.26;
L.N. 410 of 2007.

48. (1) There shall be a Police Board composed of such members, not being more than five one of whom shall be the Chairperson, as shall be appointed by the President of Malta acting on the advice of the Minister.

(2) The members shall hold office for a period of two years from the 1st January of the year for which they are appointed and may be re-appointed.

(3) If any vacancy in the Board occurs during the year on account of death, resignation, or for any other cause, the President shall, as soon as practicable, appoint another person to fill the vacancy and the person so appointed shall remain in office for the remainder of the term of office of his predecessor:

Provided that the Board and the members shall continue to act notwithstanding any such vacancy.

(4) No person shall be qualified to be appointed as, or remain, a member of the Board if he is:

- (a) a public officer;
- (b) a member, officer or servant of any body corporate established by law;
- (c) a member of the House of Representatives or a member or servant of a Local council.

(5) A member of the Board may be removed from office by a Resolution of the House of Representatives on the ground of inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) The Board shall have the power exercisable through its Chairperson -

- (a) to summon witnesses who shall be heard on oath;
- (b) to administer an oath to any witness and to any person concerned in the investigation of the complaint, and require them to give evidence.

(7) Summonses for attendance of witnesses may be in such form as decided by the Board and shall be signed by the Chairperson or Secretary of the Board.

(8) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person over the age of sixteen years at the place of residence or of business of the person summoned and if served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(9) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses without sufficient cause, to answer or to

answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Board, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Board, shall be liable on conviction to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or to imprisonment not exceeding one month or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of subarticle (6)(b), no person giving evidence before the Board may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Board be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(10) No proceedings shall be commenced in respect of any offence against subarticle (9) without the concurrence of the Attorney General.

49. The Police Board shall have the following functions:

- (a) to expeditiously inquire into and report on any matter regarding the conduct of the Force or any of its members either on its own motion or on any complaint which it receives or is referred to it by the Minister;
- (b) to inquire and report on any complaint made to it by an officer against treatment which he deems prejudicial or discriminatory, or causes him undue distress;
- (c) to monitor the conduct of internal police disciplinary proceedings and to inform the Minister of its findings; for the purposes of this paragraph any member of the Police Board may attend any session of disciplinary proceedings held by the Commissioner in the exercise of powers delegated to him as mentioned in article 35(2);
- (d) to monitor relations between the Force and the public and in particular the amenities of the Force open to the public as well as to supervise and visit any cells where persons are or may be detained and to report thereon to the Minister;
- (e) to monitor the workings of the Internal Affairs Unit within the Police Force and to refer to it any such matters that it deems fit;
- (f) to send any report required by the provisions of this article to the Minister and to the Commissioner of Police;
- (g) to submit a report of its work every calendar year to the Minister, the Commissioner of Police and to the Social Affairs Committee of the House of Representatives;
- (h) to perform any other function that may be assigned to

Functions of Board.
Added by:
XIII. 2002.4.

it by regulations, or by any specific written instructions from the Minister:

Provided that for the purpose of the exercise of the above functions the Force shall be deemed to include any civilian personnel attached to the Force.

Time limit for complaint.
Added by:
XVI. 2006.30.

49A. Any complaint to the Board shall be submitted within six months from the date of the occurrence of the incident complained of and the Board may refuse to consider any complaint submitted after such period.

Meetings of Board.
Added by:
XIII. 2002.4.

50. (1) The Police Board shall meet at least once a soars. month at the place that may be established for such meetings.

(2) The quorum at meetings shall be half the number of members plus one.

(3) Any decision may only be taken on the majority of the votes of the members present and voting, with the Chairman having the casting vote in the case of equality of votes.

(4) Minutes shall be kept by the Secretary of the Police Board, who is also the custodian of all relevant documents, which shall be read over and confirmed and signed by the Chairman and the Secretary at the end of the meeting.

(5) The Board shall otherwise regulate its own procedure.

Appearance before Police Board.
Added by:
XIII. 2002.4.

51. (1) The Commissioner or any police officer or any civilian employee may be requested to appear before the Police Board to answer questions and to provide information that may be relevant to the said Board in the execution of its duties.

(2) The complainant may also be asked to attend before the Police Board, and give further information.

Delegation of functions.
Added by:
XIII. 2002.4.

52. The Police Board may, in conjunction with the Internal Affairs Unit, assign to one of its members the duty to collect information and evidence and such member shall report back to the Board.

Decisions.
Added by:
XIII. 2002.4.

53. (1) In its decisions, the Board may recommend such action that it deems fit.

(2) Where it results that the matter may involve criminal proceedings, the Police Board shall refer its findings to the Attorney General and to the Commissioner of Police.

Exceptions.
Added by:
XIII. 2002.4.

54. (1) Notwithstanding the other provisions of this Title, it shall not be lawful for the Police Board or any of its members to inspect or demand the production of any exempt document within the meaning of article 637(3) to (6), both subarticles inclusive, of the Code of Organization and Civil Procedure nor to require any police officer to give any information contained in any such document.

Cap. 12.

(2) It shall also not be lawful for the Police Board or any member thereof to demand the production of any document connected with a criminal investigation or to demand or to be given

information on any such criminal investigation.

55. (1) In this Title the words "Internal Affairs Unit" mean that internal department within the Police Force, by whatever name called, entrusted with the internal supervision of the workings of the Force in order to ensure its accountability.

Internal Affairs Unit.
Added by:
XIII. 2002.4.

(2) The Internal Affairs Unit shall be set up within the Force to investigate any complaint on police officers made against them by members of the public or by one member of the Force against another and to receive and to examine any testimonial for commendation from the public regarding a police officer in the execution of his duties.

56. The Minister may make regulations not inconsistent with the provisions of this Act to regulate matters of procedure before the Board and to make provision for such remedies or measures that may be recommended by the Board.

Regulations for Board.
Added by:
XIII. 2002.4.

57. (1) The Police Board shall every year submit a report of its work to the Minister, to the Social Affairs Committee of the House of Representatives and to the Commissioner.

Reports by Board.
Added by:
XIII. 2002.4.

(2) The Police Board may publish a summary of its report, observing due discretion where the interests of private individuals so require, especially by not revealing the names or identity of individuals.

(3) The members of the Board shall be bound by the provisions of the Professional Secrecy Act.

Cap. 377.

58. A member of the Police Board shall abstain from taking part in the deliberations and decision on any matter which comes before the Board in which he may have a pecuniary, professional, or other personal interest, or in which a relative, whether by affinity or consanguinity up to the fourth degree inclusively, is in any way involved.

Abstention of members.
Added by:
XIII. 2002.4.

59. A member who absents himself from four meetings without a valid reason shall be considered as having resigned his post, and the Secretary shall inform the President accordingly.

Unjustified absence.
Added by:
XIII. 2002.4.

60. (1) It shall be an offence against discipline for any member of the Force to knowingly hinder any other member of the Force from effectively exercising his right to make or pursue a complaint to the Police Board or to penalise or harass by persistent unreasonable demands such other member of the Force for having made or for pursuing a complaint to the Police Board with the object of inducing such member of the Force to desist from complaining to the Police Board or to withdraw a complaint made to such Board.

Offences.
Added by:
XIII. 2002.4.

For the purposes of articles 100 and 101 of the Criminal Code, the Police Board shall be deemed "a competent authority".

Cap. 9.

PART III

INVESTIGATIONS AND PROSECUTIONS

TITLE I

DUTIES OF CUSTODY OFFICERS

Duties of custody
officers.
Added by:
XIII. 2002.4.

61. The custody officer or an officer performing the functions of a custody officer according to law shall -

- (a) release from custody a person in police detention if upon the lapse of the period of forty-eight hours from his arrest that person has not been brought before a court within that period:

Provided that before effecting such release the custody officer or officer performing the functions of a custody officer shall inform the investigating officer and a Magistrate and the final decision shall rest with the Magistrate;

- (b) release any person when so ordered by the investigating officer who had proceeded to or requested his arrest;
- (c) ensure that persons in police detention under his charge are treated in accordance with the law and according to any code of practice that may be issued;
- (d) keep a record of anything that needs to be recorded with reference to a detained person under his charge as provided in this Act or in any code of practice that may be issued;
- (e) in consultation with the investigating officer, attend to any medical or other humanitarian needs of the person detained and shall in no case assume personal responsibility where any medical attention is requested or manifestly required;
- (f) seek to ensure that the place where persons under his charge are detained conforms to acceptable standards of hygiene and comfort, especially if a detained person is to sleep therein;
- (g) seek to ensure that there is no danger to the life of the person detained under his charge even if the person detained is left unattended.

Transfer of
detainee.
Added by:
XIII. 2002.4.

62. (1) When a detained person is transferred to another place of detention, the responsibility for the welfare of that person shall devolve on the new custody officer who shall assume responsibility.

(2) The Magistrate carrying out an inquiry into the *in genere* in relation to the offence in respect of which a person is detained may order at any time that the detained person be transferred to another place of custody.

63. (1) The custody officer shall personally review with the investigating officer the continued detention of the person detained to determine whether it is justified in the circumstances.

Review of police detention.
Added by:
XIII. 2002.4.

(2) The first review shall be carried out within the first twelve hours from arrest and periodically thereafter at intervals not exceeding twelve hours. A record shall be kept of the fact and of the result of each review.

64. The custody officer shall keep a register in which shall be recorded such personal details as to enable the identification of any person detained at the police station where the officer is stationed as well as all other relevant information concerning the detention of the person detained including:

Records of detention.
Added by:
XIII. 2002.4.

- (a) the name of the arresting officer;
- (b) the date and time of arrest;
- (c) the date and time that the detained person was brought to the station;
- (d) the time of any interrogation and the duration thereof;
- (e) the time and result of any review of detention;
- (f) the time and nature of any requirements for medical advice or treatment and the action taken thereon;
- (g) the date and time of any transfer of the detained person to some other place together with the location of the place in question;
- (h) the date and time of the release of the detained person and under whose authority the release was made;
- (i) any allegation that the detained person is being or has been ill-treated during the period of his detention by the Police.

65. (1) The custody officer shall keep a written record of everything in the possession of the person arrested who is to be detained at the police station and of any item seized and retained in accordance with any provision of law. Such a record shall be made part of the detained person's custody record.

Searches of detained persons.
Added by:
XIII. 2002.4.

(2) The custody officer may seize any item, including any item of clothing or personal effects, in the possession of the person arrested if he has reasonable grounds for believing that such item may be evidence relating to an offence or if he believes that it may be used by that person -

- (a) to cause physical injury to himself or to any other person; or
- (b) to damage property; or
- (c) to interfere with evidence; or
- (d) to facilitate his escape.

(3) The provisions of articles 355P to 355U, both inclusive, of the Criminal Code shall apply in the case of any seizure made under this article.

Cap. 9.

TITLE II

CODES OF PRACTICE AND INTERVIEWS

Codes of practice.
Added by:
XIII. 2002.4.

66. (1) The Minister may by regulations issue codes of practice in connection with -

- (a) the exercise by police officers of statutory powers -
 - (i) to search a person without first arresting him;
 - (ii) to search a vehicle without making an arrest;
- (b) the detention, treatment, questioning and identification of persons by police officers;
- (c) searches of premises by police officers; and
- (d) the seizure of property found by police officers on person or premises.

(2) The Code of Practice for the Interrogation of Arrested Persons in the Fourth Schedule shall be deemed to be a Code of Practice issued by the Minister under the provisions of this article and may at any time be amended, repealed or substituted accordingly.

(3) A police officer who fails to comply with any provision of a code of practice issued under this article shall be liable to disciplinary proceedings for an offence against discipline.

(4) A failure on the part of a police officer to comply with any provision of such a code shall not of itself render him liable to any criminal or civil proceedings.

(5) In all criminal and civil proceedings any such code shall be admissible in evidence; and if any provision of such a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

Tape-recording
and video-recording
of interviews.
Added by:
XIII. 2002.4.

67. The Minister may make regulations providing for a code of practice for the audio-recording on tape or for the video-recording on film of any interview of a person suspected of the commission of an offence, as may be specified in the said regulations.

TITLE III

FINGERPRINTS, SAMPLES AND IDENTIFICATIONS

Fingerprinting and
other samples.
Added by:
XIII. 2002.4.

68. The investigating officer with the assistance of such competent persons as may be necessary and with the appropriate consent, may -

- (a) take fingerprints, palm-prints or other prints from the person arrested;
- (b) take photographs of the person arrested or of non-intimate parts of his body;
- (c) take non-intimate samples from the person arrested.

- 69.** Any person may, within one year from the date of his acquittal by a final judgment of a court, demand that all samples, fingerprints and documents taken from him and any recordings of his voice or photographs or video recordings of him be returned to him or destroyed in his presence.
- Returning of fingerprints, etc.
Added by:
XIII. 2002.4.
- 70.** (1) The demand mentioned in article 69 shall be made by application to a Magistrate.
- Request for return of fingerprints, etc.
Added by:
XIII. 2002.4.
- (2) If the demand is allowed the Magistrate shall ensure that the material in question is returned or destroyed in his presence.
- (3) If the material in question is needed in connection with any other investigation, the Magistrate may order that the return or destruction of any such material be detained until it is no longer required for the other investigation.
- 71.** A demand as provided in article 69 may also be made by a person who has been arrested but not charged. In such a case the application referred to in article 70 may only be allowed after the Police have been given an opportunity to reply to the application which shall be served upon the Police for the purpose. The application shall not be allowed if it is opposed by the Police and the period of prescription for the exercise of the criminal action in respect of the offence for which the applicant was arrested has not lapsed.
- Request by person arrested.
Added by:
XIII. 2002.4.
- 72.** Where the person acquitted or the person arrested but not charged, as the case may be, fails to apply to a Magistrate as provided in articles 69 and 71, the Police may transfer anything as is mentioned in those articles to the Police Academy established under this Act if the material is considered by the Police to have a didactic or experimental value.
- Disposal of unclaimed samples.
Added by:
XIII. 2002.4.
- 73.** (1) The Police may hold, process and classify any information relevant to the commission of any crime in or outside Malta which information may be preserved by any system whatsoever, including in electronic format, subject to the provisions of any law on the protection of data.
- Police archives.
Added by:
XIII. 2002.4.
- (2) Such information may relate to fingerprints, photographs, measurements, blood-samples, intimate or non-intimate samples, patterns of criminal behaviours and methodology in the perpetration of an offence and similar details for the purposes of any future identification of offenders.
- Extent of information.
- (3) The Police may, for the purpose of establishing evidence in the investigation into any criminal offence, compare any such information with any other information that may become available to it.
- Right of comparison.
- 74.** (1) Where any identity parade or identification of objects is considered desirable by an investigating officer, it shall be conducted by a Magistrate who shall take such steps as to ensure that there is no suggestion or outside influence on the person who is called upon to make the identification.
- Identifications.
Added by:
XIII. 2002.4.
- (2) The Minister may make regulations for the carrying out of an identification parade.

TITLE IV

PROTECTION OF WITNESSES AND VICTIMS

Witness protection.
Added by:
XIII. 2002.4.

75. (1) Where a person is the victim of a crime who is to be produced as a witness in any criminal proceedings against any principal or accomplice in the crime and that person is concerned for his safety, the Commissioner may, subject to the provisions of article 76, set up a witness protection programme hereinafter referred to in this Part as "the programme".

(2) The provisions of subarticle (1) shall also apply to a person who took part in the commission of a crime and whose evidence is indispensably required for the prosecution of any principal or accomplice in the crime where that person agrees to co-operate with the public authorities for the purpose of such prosecution.

Entitlement to programme.
Added by:
XIII. 2002.4.

76. A person may become entitled to benefit under the programme if that person -

- (a) is a victim of a crime; or
- (b) participated in any organisation or group of persons who have committed or are organised to commit any crime; or
- (c) has participated in the commission of a crime liable to the punishment of imprisonment of seven years or more;

and, where paragraph (b) or (c) applies, reveals to the Police such information which the Police consider sufficient as to be likely to secure, upon an eventual prosecution, the conviction of other participants in the crime.

Applicability of programme.
Added by:
XIII. 2002.4.

77. With respect to a person entitled to be admitted to the programme under article 76(b) or (c) the programme shall only apply if that person declares that he will testify during any trial of any participant in the crime and any benefit granted shall be forfeited if the witness refuses to so testify.

Evidence *viva voce*.
Added by:
XIII. 2002.4.

78. (1) Notwithstanding the provisions of any other law, where the court considers it necessary for the protection of any person admitted to the programme, it may allow such person to give evidence *viva voce* during the trial while being screened from the accused or by contemporaneous television transmission.

(2) The Minister with the concurrence of the Minister for Justice may make regulations to provide for the modalities, conditions and rules of procedure to be applied when a person is to give evidence under the provisions of subarticle (1).

Recommendation of application.
Added by:
XIII. 2002.4.

79. In deciding whether to recommend the admission of a witness into the programme under article 76(b) or (c), the Commissioner shall take into account whether the witness provides reliable and relevant circumstantial, direct or documentary evidence to corroborate his version.

- 80.** (1) Where the Commissioner is of the opinion that a person qualifies for admission to the programme, he shall apply in writing to the Attorney General requesting such person to be admitted to the programme stating the reasons for his request and producing all supporting documents.
- Decision by Attorney General.
Added by:
XIII. 2002.4.
- (2) The Attorney General shall decide on any such request in his individual judgement, and if the request is allowed the witness shall be deemed to be a protected witness under the programme. The decision of the Attorney General may not be questioned in any manner in any court or tribunal.
- 81.** A protected witness who took part in the fact which constitutes a crime for which others are being or are to be prosecuted, shall not be prosecuted for any crime arising from the same fact before the proceedings in which he is or will be a witness shall have become *res judicata*.
- Suspension of criminal proceedings.
Added by:
XIII. 2002.4.
- 82.** The period of prescription in respect of the criminal action against the protected witness arising from the fact referred to in article 81 shall be suspended from the date that the Attorney General decides that the witness shall be deemed to be a protected witness, and shall continue from the day on which the last proceedings in which he is a witness for the purposes of the programme become *res judicata*.
- Suspension of prescription.
Added by:
XIII. 2002.4.
- 83.** The programme may provide for such protection to the life and property of a witness admitted to the programme and to that of members of his family in the ascending, descending or collateral line, as the Commissioner may deem appropriate and may include provision for the payment of a subsistence allowance in particular cases.
- Protection under programme.
Added by:
XIII. 2002.4.
- 84.** The Minister responsible for the Police may enter into agreements with foreign governments providing for assistance, on the basis of reciprocity, in the implementation of witness protection programmes. For the purpose of enhancing the protection of witnesses such agreements may provide for the possibility of transferring to another country a protected witness or receiving from another country a witness admitted to a programme in that country similar to that referred to under article 75.
- Agreement with foreign countries.
Added by:
XIII. 2002.4.
- 85.** (1) The Attorney General may at any time, either *ex officio* or on an application by the Commissioner, revoke a person's protected witness status under article 76(a) or (b) where it results that that person is not abiding by the conditions of the programme or that his evidence or version of the facts, or any circumstances indicated by him as corroborating evidence, are manifestly false.
- Revocation of status of protected witness.
Added by:
XIII. 2002.4.
- (2) The protected witness status referred to in subarticle (1) may also be revoked as provided in that subarticle where the person enjoying that status commits during the period of the programme, or is reasonably suspected of having committed during that period, any other crime punishable with imprisonment for more than three years and not being a crime of an involuntary nature.

Revocation of status for victims of crime.

Added by:
XIII. 2002.4.

Cap. 9.

86. The Attorney General may also revoke a person's protected witness status granted under article 76(a) where it results that such person is not abiding by the conditions of the programme or where he is reasonably suspected of having committed any of the crimes referred to in articles 100 to 105 of the Criminal Code, both inclusive, or of the crimes referred to in articles 108 to 110 of the said Code, both inclusive, in relation to the fact in respect of which that status was granted.

Requests to Attorney General or to persons in authority.

Added by:
XIII. 2002.4.

87. A request by a person to be considered a protected witness may be made to the Attorney General, who shall decide the request as provided in article 80(2). The Attorney General may not be brought as a witness against the person requesting to be admitted to the programme or to prove that he made any such request.

Applicability of benefits.

Added by:
XIII. 2002.4.

88. The benefits under this Act or under any regulations made thereunder shall not apply to a person who results to be the head of the criminal organisation or group, or the main instigator or beneficiary of the crime.

Extension to witnesses not participants in the crime.

Added by:
XIII. 2002.4.

89. A witness protection programme may also be extended to a witness in any criminal proceedings in respect of a crime as is mentioned in article 76 and who has not participated in any way in such crime.

Hearing of vulnerable witnesses by means of a contemporaneous video conference.

Added by:
XIII. 2002.4.

90. (1) Any minor, any victim of any crime against the peace and honour of families, and against morals, and any other witness who in the opinion of the court needs special treatment or protection, may be allowed to give evidence *viva voce* during the trial by contemporaneous television transmission.

(2) The Minister, in concurrence with the Minister for Justice may make regulations to lay down anything that needs to be prescribed for the setting up of a contemporaneous television transmission during a trial as provided in subarticle (1) and to lay down such rules of procedure and of evidence as may be necessary for such purpose as well as to secure greater protection of the personal safety, sense of modesty, psychological stability of such witnesses as may, on account of special circumstances, require such protection.

PART IV

POWERS OVER PRIVATE PROPERTY

Limits.

Added by:
XIII. 2002.4.

91. A police officer may interfere with the enjoyment of private property only to the extent authorised by law.

Definition of powers.

Added by:
XIII. 2002.4.

92. Saving the special provisions of any other law allowing interference by the Police with the enjoyment of private property, the Police shall have the following powers to interfere with a thing in the following circumstances:

- (a) the power to remove and hold a thing which may be in breach of the law, and -
 - (i) has not been removed by the owner within the time allowed in a written intimation served on

- him ordering him to remove the thing; or
- (ii) the owner of which cannot be found; or
 - (iii) which needs to be removed as a matter of urgency;
- (b) the power to demolish any building or structure which is the cause of imminent danger to the public.

93. The Minister may make regulations laying down conditions in addition to those specified in article 92 for the exercise of the powers mentioned in that article and may also specify the terms under which anything removed in the exercise of those powers is to be released to the person entitled to the delivery thereof including the payment of any dues and expenses incurred for the removal of the thing.

Regulations.
Added by:
XIII. 2002.4.

94. (1) The Force shall not be held responsible for any damage to or loss of property where it results that in respect of that property the Police acted in the lawful execution of any law and that action was reasonably justified in the circumstances.

Exemptions.
Added by:
XIII. 2002.4.

(2) Similarly the Force shall not be held responsible for damages caused by it in order to preserve life or to prevent a graver damage to property.

95. Any person from whose possession any item of property has been seized by the Police in the course of an investigation or otherwise having an interest in the same property, may by application request a Magistrate to release in his favour the property so seized. The Magistrate shall decide on the request after having heard the reply of the Police.

Retrieval of
property.
Added by:
XIII. 2002.4.

PART V

THE USE OF FORCE

96. Police officers may use such moderate and proportionate force as may be necessary to ensure the observance of the laws.

Proportionality.
Added by:
XIII. 2002.4.

97. The use of force is a remedy of last resort and shall only be used for the duration that is strictly necessary when it is evident that all other remedies would be of no avail.

Remedy of last
resort.
Added by:
XIII. 2002.4.

98. If in any Court or tribunal any question arises as to the reasonableness of the use of force the circumstances prevailing at the time when force was used shall be the criterion for examining such reasonableness.

Relevant time.
Added by:
XIII. 2002.4.

99. (1) In exceptional circumstances the Force may, in the execution of its duties, use fire-arms and other offensive weapons or materials.

Arms.
Added by:
XIII. 2002.4.

(2) When assessing the existence or otherwise of the exceptional circumstances mentioned in subarticle (1), consideration shall be taken of the conditions prevailing at the time when the use of fire-arms, or weapons or other materials becomes inevitable to preserve the life of a police officer or of others, or to avert an imminent danger of widespread violence.

Responsibility.
Added by:
XIII. 2002.4.

100. Saving any criminal or civil liability under any other law, it shall be considered as an offence against discipline if a police officer uses force for considerations extraneous to those permitted by law and the circumstances of the case.

Regulations.
Added by:
XIII. 2002.4.

101. The Minister may make regulations concerning the use of force and fire-arms by the Police.

General saving.
Added by:
XIII. 2002.4.

102. The provisions of this Part shall be in addition to any other power conferred by any other law.

PART VI

POLICE ACADEMY

Establishment of
the Police
Academy.
Added by:
XIII. 2002.4.

103. There is hereby established the Police Academy, hereinafter referred to as the "Academy"

Aims.
Added by:
XIII. 2002.4.

104. The aims and objectives of the Academy shall be -

- (a) to train recruits, officer cadets and serving police officers to fulfil their role in the Force, with ability, knowledge and expertise, integrity and impartiality, effectively and efficiently;
- (b) to instill and strengthen professionalism in policing skills and core operational functions, and to train officers in modern managerial skills;
- (c) to initiate officers in their own further studies which are relevant to their role in the Force, such as psychology, behavioural sciences, scientific investigation, local and foreign case-law, comparative law, and languages;
- (d) to co-operate with criminal justice organisations and training institutions in the training of criminal justice personnel.

Board.
Added by:
XIII. 2002.4.

105. (1) The Academy shall be governed by a Board composed of a Chairman, the Commissioner of Police *ex officio* or his representative, the President of the Police Association or his representative, and not less than five but not more than nine other members chosen from among persons having knowledge or experience of police and criminal justice matters. The members of the Board shall be appointed by the Minister responsible for the police. The Commandant and the Director of Studies shall be *ex officio* members of the Board.

(2) The Board shall have the general direction of the Academy and its policies and shall have responsibility for the setting of objectives and targets and for the monitoring of the Academy's operations.

(3) The Chairman shall be the juridical representative of the Academy.

106. (1) There shall be a Commandant who shall have the overall direction of the day to day affairs of the Academy. The Commandant shall be appointed by the Minister after consulting the Board.

Director and staff.
Added by:
XIII. 2002.4.

(2) There shall be a Director of Studies who shall be appointed by the Minister after consulting the Board and who shall be responsible for the curriculum and for all academic aspects of the running of the Academy.

(3) The Director shall be responsible for the setting up of the courses and curricula of the Academy, and may engage lecturers on specific subjects.

(4) The Director shall also be responsible for organising such seminars, public lectures and discussions, which tend to promote the better functioning of the Force and the spreading of correct information to the public about the justice system.

PART VII

REGULATIONS, ORDERS AND FORMS

107. (1) The Minister responsible for the Police may make regulations for the better carrying out of the provisions of this Act and for the general governance of the Force, and without prejudice to the generality of the foregoing, in particular as to any matters which the Commissioner is authorised to regulate by standing orders, and when such regulations are made, they shall prevail over any standing orders made or to be made by the Commissioner.

Minister may make regulations.
Added by:
XIII. 2002.4.

(2) The provisions contained in the Schedules may be varied or revoked by regulations made by the Minister responsible for the Police under this article.

108. The Commissioner may, subject to the provisions of this Act and to any regulations made by the Minister responsible for the Police, from time to time make standing orders for the general governance of police officers in relation to their leave, conditions of service, transfer (including expenses in connection therewith) training, arms and accoutrements, clothing and equipment, places of residence, classification and duties, as well as to their distribution and inspection, and such other orders as he may deem expedient to prevent negligence and for promoting efficiency and discipline on the part of police officers in the discharge of their duties.

Commissioner may make standing orders.
Added by:
XIII. 2002.4.

109. The Commissioner shall also provide for any forms (or procedures) which may be required by or under this Act.

Forms.
Added by:
XIII. 2002.4.

PART VIII

MISCELLANEOUS

110. (1) A prosecuting officer is an officer of the Court and as such is in duty bound to behave dispassionately and with propriety, and must show due respect to the Court.

Loyalty to Court.
Added by:
XIII. 2002.4.

(2) A prosecuting officer may not submit to the Court, even if not under oath, any fact which he knows not to be true.

Manifestly unfounded prosecutions.
Added by:
XIII. 2002.4.

111. It shall be an offence against discipline for a police officer to charge a person before the courts with an offence which is manifestly unfounded. The provisions of Title IV of Part II of this Act shall apply in any such case.

The Police and the media.
Added by:
XIII. 2002.4.

112. (1) No police officer shall give any details to the press or the broadcasting media regarding the identity of any person arrested on a reasonable suspicion that he committed an offence.

(2) The Police shall not issue to the press, either directly or indirectly, any information about the identity of the person who is about to be charged before the courts or of any investigation concerning any suspect.

Information in the interest of public safety and security.
Added by:
XIII. 2002.4.

113. Notwithstanding the provisions of the preceding article, the Police may, in the interests of public safety and security, issue warnings about any person who is at large indicating enough details for the identification of such a person and about his mode of behaviour or system of conduct.

Offences against discipline.
Added by:
XIII. 2002.4.

114. (1) Any violation of article 112 shall be deemed an offence against discipline.

(2) The use of data for a purpose other than as allowed by law shall, without prejudice to the provisions of any other law, constitute an offence against discipline.

Liaison with local councils.
Added by:
XIII. 2002.4.

115. (1) The police officer in charge of a division shall hold regular meetings at suitable intervals with representatives of the local council of each locality in his division to discuss any matters which fall within the responsibility of the Police.

(2) Minutes of such meetings shall be kept and the progress made between one meeting and another shall be monitored by the Superintendent in charge of the district and the Assistant Commissioner in charge of the region.

Enquiries by Commissioner.
Added by:
XIII. 2002.4.

116. (1) The Commissioner may hold an inquiry into any matter concerning the administration of the Force which he considers serious enough to require such an investigation.

(2) In the conduct of any such inquiry, the Commissioner shall have the same powers mentioned in article 36(2) and the provisions of article 36(3) and (4) shall also apply to the proceedings of the inquiry under this article.

(3) An inquiry shall be without prejudice to any action that the Police Board established by this Act may take, and the Police Board may recall and pursue the inquiry if it falls within its competence.

International co-operation.
Added by:
XIII. 2002.4.

117. The Police may, directly or through regional or international police organisations, co-operate with any state agency having similar powers and duties in any other country.

118. (1) The Force shall continue to make use of animals in the performance of certain operations and in ceremonial functions.

Animals used by the Force.
Added by:
XIII. 2002.4.

(2) The Commissioner shall ensure that these are treated in the best way possible and compatibly with the nature of such animals, and that they are not subjected to any cruel treatment.

(3) Unless otherwise advised by a veterinary surgeon, an animal that is no longer of use to the Force, for any reason whatsoever, shall preferably be donated to any person or body that can continue to treat the animal well in its retirement. The Force shall not put down an animal merely because no suitable person has been immediately found to take care of that animal.

119. (1) Where under this Act anything falls to be decided by a Magistrate, such a decision shall be by a decree which shall state the reasons of fact and law on which it is based.

General provisions.
Added by:
XIII. 2002.4.

(2) Where under this Act the investigating officer is required to file an application, he shall premise the request by such grounds which he genuinely believes to be true and reasonable, and the Magistrate may in all cases require that the application be confirmed on oath. In urgent cases, as the Magistrate may ascertain, the request may be made either by facsimile or by telephone; provided that in the latter case such request is as soon as practicable reduced in writing and submitted to the Magistrate.

(3) In urgent cases the authorisation by the Magistrate may also be communicated by facsimile.

(4) Any authorisation given by a Magistrate shall lapse after one month, but may be renewed for a valid reason for subsequent periods of one month each.

120. All persons who at the at the time of commencement of the Malta Police Ordinance were serving as Police officers shall be deemed to have been appointed under that Ordinance as in force prior to the coming into force of the Malta Police Ordinance (Amendment) Act, 2001, and shall be considered to have duly taken the oath of office as required by such law.

Serving Police officers.
Added by:
XIII. 2002.4.

PART IX

Added by:
X.1990.2.

PENSIONS

121. (1) It shall be lawful for the Minister responsible for the Police with the concurrence of the Minister responsible for finance to make, and when made, to vary and revoke regulations for the granting of pensions to persons who have served in the Police Force or to their legal representatives or dependants:

Minister may make pension regulations.
Amended by:
XIII. 2002.5.

Provided that until varied or revoked by any such regulations, the regulations contained in the Fifth Schedule shall be in force.

(2) Any regulations made under this article may have retrospective effect in order to confer a benefit upon, or remove a disability attaching to any person or class of persons.

(3) No regulation made under this article shall have effect unless it has received the prior approval of the House of Representatives signified by resolution.

(4) Any pension granted under this Act shall be computed in accordance with the provisions in force at the actual date of the officer's retirement.

Pensions to be charged on revenues of Malta.
Amended by:
XIII. 2002.5.

122. There shall be charged on and paid out of the Consolidated Fund all such sums of money as may from time to time be granted by way of pension in accordance with this Act.

Circumstances in which pension may be granted.
Amended by:
XIII. 2002.5.

123. No pension shall be granted to any Police officer except on his retirement from the Force in any one of the following cases -

- (a) on or after attaining the age of fifty-five years or if he has completed twenty-five years' service in the Force;
- (b) on the abolition of his office;
- (c) on compulsory retirement for the purpose of facilitating improvement in the organisation of the Force, by which greater efficiency and economy can be effected;
- (d) in the case of termination of employment in the public interest as provided in this Act;
- (e) on medical evidence to the satisfaction of the Prime Minister that such Police officer is incapable by reason of infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent.

Retirement on the ground of public interest.
Amended by:
XIII. 2002.5.

124. Where a Police officer's service is terminated on the ground referred to in article 18(c), and a pension cannot otherwise be granted under the provisions of this Act, such Police officer may be granted a pension not exceeding in amount that for which he would be eligible if he retired from the Force in the circumstances described in article 123(e).

Maximum pension grantable.
Amended by:
XIII. 2002.5.

125. (1) A pension granted to a Police officer under this Act shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in the Force.

(2) For the purpose of the preceding subarticle an additional pension granted in respect of injury shall not be taken into account; but where a Police officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his service in the Force by more than the sum by which his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

(3) For the purposes of this Part of this Act and the regulations made thereunder:

"month" means a calendar month;

"pensionable emoluments" include -

- (i) salary,
- (ii) personal allowance,

but does not include duty allowance, entertainment allowance, house allowance, the estimated annual rental value of free quarters, value of rations, extra remuneration, any fees paid out of the Treasury by way of salary or any other emoluments whatsoever;

"personal allowance" means a special addition granted personally to the holder for the time being of the office, but does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

"Police officer" means a Police officer appointed in the Force on or after the 15th January, 1979;

"year" means a calendar year.

126. No pension under this Act shall be assignable, transferable or liable to be attached, sequestrated or levied upon, for or in respect of any debt or claim whatever, except in so far as is provided in article 318(3) of the Code of Organization and Civil Procedure.

Pensions not to be assignable.
Amended by:
XIII. 2002.5.
Cap. 12.

127. A Police officer, who retires on grounds listed in article 123(e), to whom a pension has been granted under this Act and who is in receipt of -

Pension to be reduced in certain circumstances.
Amended by:
XIII. 2002.5;
L.N. 410 of 2007.

- (a) any remuneration in respect of any employment, or of any services rendered, or of any office held; or
- (b) any income deriving from the exercise of a trade, business, profession or vocation; or
- (c) any income deriving from any pension, allowance or other payment in respect of any employment, service or office aforesaid,

shall, until he reaches the age of fifty-five years or until the twenty-fifth anniversary of his first appointment in the Force, whichever is the earlier, have his pension reduced by the amount by which the aggregate income established in accordance with the following provisions of this article exceeds the salary which is then payable in respect of the post which the officer held on retirement, taking account only, if such salary is incremental, of the corresponding increments earned prior to retirement, or, if such post has been abolished, in analogous post:

Provided that the yearly pension shall in no case be reduced to less than the sum of one hundred and sixteen euro and forty-seven cents (116.47), and if the yearly pension or other allowance does not exceed the minimum payable as aforesaid no reduction shall be made therefrom.

(2) For the purposes of subarticle (1), the aggregate income shall be established by adding -

- (a) the pension which, but for the provisions of this article, would have been receivable under this Act; and
- (b) any remuneration or income referred to in subarticle

(1)(a), (b), or (c), or both such remuneration and income; and

by subtracting therefrom the yearly sum of one hundred and sixteen euro and forty-seven cents (116.47).

(3) Any reduction in the pension under subarticle (1) shall be calculated on the basis of the pension, the remuneration or other income, and the salary, receivable during a period of twelve months ending on 31st December of the year in which the reduction is due to be made, but, subject to any adjustments that may be or become necessary for any reason whatsoever, and in so far as practicable, shall be made from the monthly or other periodical payments of the pension.

(4) Any officer to whom subarticle (1) applies shall without delay inform the Accountant General, and keep him at all times informed, of all the circumstances which render the said subarticle (1) applicable to him and the extent to which it is so applicable, and of any change in the circumstances or extent aforesaid, and shall give the Accountant General on request, all relevant information; and if such officer fails to comply with any of the provisions of this subarticle any pension to which he may be entitled under this Act shall forthwith cease:

Provided that on good cause being shown the pension or other allowance may be restored, with or without retrospective effect, by the Prime Minister.

Added by:
XIII. 2002.7.

FIRST SCHEDULE

(Article 16)

Oath of office of Police Officers

"I solemnly swear/affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution and that I will faithfully serve the said Republic during my service in the Malta Police Force; as a Police Officer that I will subject myself to all Codes, Acts, Ordinances, orders and regulations relating to the said Force now in force or which may from time to time be in force and will discharge all the duties of a Police Officer according to law, without fear or favour, affection or ill will. (So help me God)".

SECOND SCHEDULE

(Article 28)

Statute of the Malta Police Association

ARTICLE 1

Amended by:
L.N. 46 of 1965;
VIII. 1982.2;
L.N. 43 of 1996.
Substituted by:
XIII. 2002.6.
Amended by:
L.N. 410 of 2007.

1.1 There is hereby established an Association to be known by the name of the Malta Police Association hereinafter called "The Association"; under the present statute, and which shall be the successor in title to the Malta Police Association which has been established by law under the Malta Police Ordinance.

1.2 Any word or term in this Statute shall have the same meaning as is assigned to it in the Police Act, unless the context otherwise requires.

ARTICLE 2

Aims and objectives

2.1. The aims and objectives of the Association shall be those defined in the Police Act and, in particular:

- 2.1.1 to safeguard and improve the conditions of employment of members, and to promote their interests, with particular reference to the participation of the Association in the Police Negotiating Board, as established under the Police Act or any other related board; to represent the interests of the members in any discussions with the official side in the Police Force;
- 2.1.2 the raising of the intellectual, moral and professional standard of the members;
- 2.1.3 the cultivation and development of relations between colleague members, and ex-members of the Malta Police Force;
- 2.1.4 the enhancement of the welfare of members of the Force and their dependants, through such services as may be possible from time to time, including collective insurance policies;
- 2.1.5 to afford advice and assistance to individual members in disciplinary proceedings;
- 2.1.6 to establish and administer a fund or funds for the purpose of providing educational, welfare, cultural and social activities;
- 2.1.7 to rent, take on lease, purchase, or otherwise acquire property and/or offices for the purposes of the Association;
- 2.1.8 to own and administer property and funds, and in the execution of its aim and objectives, it may employ staff and advisers, and to do all that is necessary, ancillary, or conducive to the attainment of such aims and objectives.

ARTICLE 3**Membership**

3.1 Membership shall be voluntary and shall be open to all Police officers.

3.2 All Police officers shall be deemed to be members of the Association, as on the day preceding the date of coming into force of this Statute.

3.3 Any Police officer may opt to resign as member of the Association, after the date of coming into force of this Statute.

3.4 Membership shall automatically cease:

3.4.1 upon death;

3.4.2 upon termination of being a member of the Force;

3.4.3 in the event that a member has not contributed for his membership for four consecutive times;

3.4.4 upon voluntary termination.

3.5 The reinstatement of any members shall be subject to the payment in full of any arrears existing at the time of lapsing.

ARTICLE 4**Subscription**

4.1 A member's subscription shall be due and payable quarterly in advance, at the rate of €11.65.

4.2 Subscription fees shall be at such rate as the General Conference shall determine by a simple majority vote.

4.3 Subscription shall be paid by the members as the General Conference may determine, but on the coming into force of this Statute, to the salary paying officer.

ARTICLE 5

5.1 The office of the Association shall be at the Police Headquarters or at such other address as may be decided according to this Statute.

5.2 The seal shall include the emblem of the Malta Police Association.

ARTICLE 6**Rights and Obligations of members**

6.1 All members have the right to elect and be elected in the Association.

6.2 A member is bound by this Statute and by the decisions reached according to the internal democratic process.

6.3 A member shall continue to pay the membership fee as established from time to time by the Association.

ARTICLE 7

Foreign membership or contacts

7.1 The Association may continue to be a member of membership the European Council of Police Unions (C.E.S.P.) according to its Statute.

7.2 The Association shall maintain such contacts with foreign Police Association to promote its ideals.

ARTICLE 8

Organs of the Association

8.1 The organs of the Association shall be:

8.1.1 the General Conference;

8.1.2 the Executive Committee

8.1.3 the Branch Boards.

ARTICLE 9

The General Conference

9.1 The highest organ of the Association shall be the General Conference which shall elect the Executive Committee, and shall be the primary policy-making body of the Association.

9.2.1 There shall be an Annual General Conference, which shall examine and adopt the Annual Report of the Executive Committee, and examine and approve the Annual Accounts. In alternate Annual General Conferences, there shall be the elections mentioned in this Statute for the Executive Committee.

9.2.2 The first General Conference shall be convened within three months from the entry into force of the Police Act, and shall be convened by the Commissioner for the approval of this Statute and for the election of the Executive Committee and other elections mentioned in this Statute.

9.2.3 The Annual Conference shall be held in the calendar month of each year, in accordance with the first established under the preceding paragraph.

9.3 The General Conference shall be composed of the Executive Committee, and up to two representatives from each rank, except for the Commissioner and the Deputy Commissioner.

9.4 The Chairman shall preside over the deliberations of the conference; in his absence by the Secretary General; in their absence by a person appointed by the Executive Committee.

9.5 The conference shall be held at the appointed place, date and time decided upon by the Executive Committee.

9.6 The agenda for the General Conference shall be prepared by the Executive Committee and shall be distributed at least one month in advance of the appointed day. All decisions shall be taken by a simple majority.

ARTICLE 10**Executive Committee**

10.1 The Executive Committee shall be composed of a Chairman, Secretary General, Treasurer and one member from each rank, following their elections during the General Conference.

10.2 Resignations may be received by the Secretary General and any vacancies arising thereafter shall be filled by co-option until the following elections.

10.3 The Executive Committee shall be responsible for the proper administration of the funds, for making representations and carrying out or making arrangements for negotiations with competent authorities. The juridical representation of the Association shall be vested in the Executive Committee.

10.4 The Executive Committee may delegate representatives for the carrying out of all or part of such duties.

10.5 The Executive Committee shall implement decisions adopted at the General Conference.

10.6 The Executive Committee shall meet as often as it deems necessary in order to carry out its business efficiently. The quorum shall be of half the number of members plus one, or after half an hour from the appointed time, the members present.

10.7 Motions for any amendment may be presented by or to the Executive Committee and shall be published or communicated to all members at least ten days before the General Conference.

ARTICLE 11**Branch Boards**

11.1 There shall be Branch Boards composed of representatives as shown hereunder:

11.1.1 For each and every unit/branch/rank as established by the Commissioner from time to time.

11.1.2 Five representatives for Police male constables, one female Police constable, three Police male Sergeants, one female Police Sergeant, three Sergeant Majors, five male inspectors, two female Inspectors, two Superintendents, one Assistant Commissioner, one Deputy Commissioner and Commissioner.

11.1.3 Elections to Branch Boards shall be held every two years and the highest ranking officer in any unit or branch or rank shall be considered as the returning officer and the electoral officer.

11.1.4 Every member shall have the right for one vote. Voting shall always be held by a secret ballot.

11.1.5 The Secretary General shall be the authority to issue the writ for elections and determine the place where the elections are to be held.

11.1.6 Where a vacancy arises in any Branch Board, the method of co-option shall apply.

11.1.7 Each Branch Board shall send delegates to the General Conference as shown hereunder:

Male Constables	Five	Female Constables	Three
Male Sergeants	Five	Female Sergeants	Three
Regimental/ Serg. Majors	Two		
Male Inspectors	Two	Female Inspectors	Two
Superintendents	Two	Assistant Commissioners	Two
Deputy Commissioner	One	Commissioner	One

ARTICLE 12

Auditors

12.1 The treasurer shall be responsible for the funds of the Association. Payments shall always be through a cheque account, which shall require the signature of the Treasurer and another official of the Executive Committee to be specifically designated.

12.2 Auditors may be appointed during a General Conference, who shall be not less than three and not more than five. In default of any such appointment, the civilian financial administration of the Police Force shall carry out the annual audit.

12.3 No full-time appointments may be made of personnel from outside the Association, unless prior approval has been obtained from the General Conference which shall be informed of the name and conditions of the person to be appointed. In other cases, which are of limited duration or for specific tasks, the Executive Committee shall decide.

ARTICLE 13

Dissolution

13.1 The Association may be dissolved with the consent of five-sixths of the members, at the General Conference, or after the membership falls below 15 per cent of the officers of all ranks.

13.2 In the case of dissolution, any favourable balance in the funds shall be transferred to the Police Force, to be held until eventually another Association is formed with the aim and objectives similar to those of the Malta Police Association:

THIRD SCHEDULE

(Article 33)

OFFENCES AGAINST DISCIPLINE

1. Discreditable conduct, that is to say, if a member of the Force -

*Amended by:
L.N. 148 of 1975;
XIII. 2002.6.*

Discreditable
conduct.

- (a) uses any defamatory, insulting, or disparaging words, acts or gestures in contempt of the President of Malta or of the Government of Malta or of any person employed or concerned in the administration of the Government of Malta; or
- (b) imputes misconduct in administering the Government to a person employed in the administration of the Government of Malta; or
- (c) utters or otherwise expresses disparagement of the Commissioner, or of the administration of the Force, or uses any word or expression calculated or having a tendency to bring the Commissioner or the administration of the Force into hatred, contempt or ridicule; or
- (d) acts or issues any orders, or causes or incites anyone to act, in variance with any orders or directions issued from time to time by the Commissioner, or from Police Head Quarters on behalf of the Commissioner; or
- (e) utters or writes anything calculated or having a tendency to bring about disaffection among any members of the Force, or in any manner canvasses or causes, or attempts to canvass or cause, or to do or to be done, anything so calculated or having such tendency; or
- (f) induces, or attempts to induce, or does any act, calculated or having a tendency to induce any member of the Force to withhold his services or to commit any breach of discipline; or
- (g) acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the Force or of the Police service.

Insubordinate or
oppressive
conduct.

2. Insubordinate or oppressive conduct, that is to say if a member of the Force -

- (a) is insubordinate by word, act, or demeanour; or
- (b) is guilty of oppressive or tyrannical conduct towards an inferior in rank; or
- (c) uses obscene, abusive or insulting language to any other member of the Force; or
- (d) wilfully or negligently makes any false complaint or statement against any member of the Force; or
- (e) assaults any other member of the Force when this does not constitute a breach of article 31(1)(g) of the Act; or
- (f) improperly withholds any report or allegation against any member of the Force.

Disobedience to
orders.

3. Disobedience to orders, that is to say, if a member of the Force -

- (a) disobeys or without good and sufficient cause omits or

-
- neglects to carry out any lawful order, written or otherwise; or
- (b) resides in a place not approved by the Commissioner; or
 - (c) without the previous consent of the Commissioner, receives a lodger in a house or quarters with which he is provided by the Government, or sublets any part of such house or quarters; or
 - (d) without the written approval of the Commissioner receives a lodger in a house in which he resides and in respect of which he receives a rent allowance, or sublets any part of such house; or
 - (e) wilfully refuses or neglects to discharge any lawful debt; or
 - (f) carries on or is concerned in any trade or business, or otherwise fails to devote his whole time to the Police service.
- 4.** Neglect of duty, that is to say, if a member of the Force - Neglect of duty.
- (a) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is his duty as a member of the Force; or
 - (b) idles or gossips while on duty; or
 - (c) fails to work his beat in accordance with orders or leaves his beat, point, or other place of duty to which he has been ordered, without due permission or sufficient cause; or
 - (d) by carelessness or neglect permits a prisoner to escape; or
 - (e) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making him amenable to justice; or
 - (f) fails to report any matter which it is his duty to report; or
 - (g) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he, or any person within his knowledge, can give for or against any prisoner or defendant to a criminal charge; or
 - (h) omits to make any necessary entry in any official document or book; or
 - (i) neglects, or without good and sufficient cause omits, to carry out any instructions of a medical officer acting on behalf of the Commissioner or of the Chief Government Medical Officer, or, while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his return to duty.

Falsehood or
prevarication.

5. Falsehood or prevarication, that is to say, if a member of the Force -

- (a) knowingly makes or signs any false statement in any official document or book; or
- (b) wilfully or negligently makes any false, misleading or inaccurate statement; or
- (c) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.

Breach of
confidence.

6. Breach of confidence, that is to say, if a member of the Force -

- (a) divulges any matter which it is his duty to keep secret; or
- (b) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons; or
- (c) without proper authority communicates to the public press, or to any unauthorised person, any matter connected with the Force; or
- (d) without proper authority shows to any person outside the Force any book or written or printed document the property of the Police or of any government department; or
- (e) not being the Commissioner or a delegate duly authorised by the Commissioner, nor a member of the Malta Police Association, participates in any activity of the said Malta Police Association, in violation of the provisions of this Act or advises or influences, or attempts to advise or influence, any organ of the said Association or any official or member thereof, in relation to any activity of the said Malta Police Association; or
- (f) does not abstain from any political activity or canvassing or from any activity which is likely to interfere with the loyal and impartial discharge of his duties, or which is likely to give rise to the impression among members of the public that it may so interfere; or
- (g) makes any anonymous communication to the Commissioner or to any other Police officer, or to any government department or officer; or
- (h) canvasses or attempts to canvass any member of the Public Service Commission or of any other body or organ of the Government, with regard to any matter concerning the Force; or
- (i) signs or circulates any petition or statement with regard to any matter concerning the Force, except as

provided by this Act or by any regulations or standing orders made thereunder.

- 7.** Corrupt practice, that is to say, if a member of the Force - Corrupt practice.
- (a) receives any bribe; or
 - (b) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity; or
 - (c) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial, without the consent of the Commissioner; or
 - (d) places himself under pecuniary obligation to any publican, beer-retailer, spirit-grocer, or any person who holds a licence granted by the Commissioner or concerning the granting or renewal of which the Police may have to report or give evidence; or
 - (e) improperly uses his character and position as a member of the Force for his private advantage; or
 - (f) in his capacity as a member of the Force, writes, signs or gives, without the sanction of the Commissioner, any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application of any kind; or
 - (g) without the sanction of the Commissioner, supports an application for the grant of a licence of any kind; or
 - (h) without good and sufficient cause, is or becomes subject to pecuniary embarrassment.
- 8.** Unlawful or unnecessary exercise of authority, that is to say, if a member of the Force without good and sufficient cause - Unlawful or unnecessary exercise of authority.
- (a) makes an arrest; or
 - (b) uses any violence to a prisoner or any other person with whom he may be brought into contact in the execution of his duty; or
 - (c) is uncivil to any member of the public.
- 9.** Malingering, that is to say, if a member of the Force feigns or exaggerates any sickness or injury with a view to evading duty. Malingering.
- 10.** Absence without leave or being late for duty, that is to say, if a member of the Force without reasonable excuse is absent without leave from, or is late for, parade, court or any other duty. Absence without leave.
- 11.** Uncleanliness, that is to say, if a member of the Force while on duty or while off duty in uniform in a public place is unshaven, or improperly dressed, or is dirty or untidy in his person, clothing or equipment. Uncleanliness.
- 12.** Damage to clothing or other articles supplied, that is to say, if a member of the Force - Damage to clothing, etc.
- (a) wilfully or by carelessness causes any waste, loss or

-
- damage to any articles of clothing or equipment, or to any book, document or other property of the Police or of any government department; or
- (b) fails to report any loss or damage as above however caused.
- Drunkenness. **13.** Drunkenness, that is to say, if a member of the Force while on or off duty, is unfit for duty through drink.
- Drinking on duty. **14.** Drinking on duty or soliciting drink, that is to say, if a member of the Force -
- (a) without the consent of his superior officer, drinks, or receives from any other person, any intoxicating liquor while he is on duty; or
- (b) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor while he is on duty.
- Entering licensed premises. **15.** Entering licensed premises, that is to say, if without permission a member of the Force enters -
- (a) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed, when his presence there is not required in the execution of his duty; or
- (b) any such premises in uniform while off duty.
- Lending money, etc. **16.** Lending, borrowing or accepting presents, that is to say, if a member of the Force lends money to any superior in rank or borrows money or accepts any present from any inferior in rank.
- Criminal conviction. **17.** Conviction for a criminal offence, that is to say, if a member of the Force has been found guilty by a court of law of a criminal offence.
- Accomplice in offence. **18.** Being an accomplice in a disciplinary offence, that is to say, if a member of the Force connives at, or knowingly commits an act of complicity in, any offence against discipline.
- Conduct prejudicial to good order. **19.** Breach of order, that is to say, if a member of the Force conducts himself, by act or omission, in any manner prejudicial to good order or discipline, or otherwise unbecoming a member of the Force, and not elsewhere provided for in this Schedule.
- Interpretation. **20.** For the purposes of this Schedule the word "prisoner" means any person in any legal custody or detention, whether sentenced, or awaiting trial, or detained by the Police, or held under a lawful warrant or order.
-

FOURTH SCHEDULE

*Added by:
XIII. 2002.8.*

(Article 66)

Code of Practice for Interrogation of Arrested Persons

General Rules

This Code of Practice is to be accessible for consultation in all Police Stations, and in all places where interviews are normally carried out so that all members of the Police Force, arrested persons, or members of the public may read it. Where according to this Code, any person is to be given any information, this information need not be given when such person is not capable of understanding it, or is violent in behaviour, or is in need of urgent medical care; however, such information shall be given as soon as practicable.

1. Purpose of Questioning

First of all, remember that the aim of the questioning is to examine whether the reasonable suspicion in the person being interrogated is valid or not, and if valid, to collect facts and evidence in favour and against the person interviewed for the purpose of arraigning such person before a Court of Law, if sufficient evidence exists.

2. Importance of Statements

Since the statement of the person subject to questioning is of paramount importance as evidence, it is important that nothing is done during the interview which may, even in the slightest way, throw doubt on the validity of the statement; and because of the statement's importance as proof, our Courts are strict and meticulous in the criteria they have adopted to ensure that a statement is made in conformity with article 658 of the Criminal Code, that is to say the statement is made "voluntarily and not extorted or obtained by means of threats or intimidation, or of any promise or suggestion of favour".

3. Place where questioning may occur

As a rule, the interrogation should be conducted at the Police General Headquarters or at a Police Station or other areas under Police control, except when there are serious reasons indicating that this would seriously prejudice the investigations.

4. Caution

The person subject to the questioning has the right to refuse to answer any question put to him.

For these reasons, prior to any questioning of a person suspected of having committed an offence, a warning or caution, in the following form, shall be given:

"You do not have to say anything unless you wish to do so, but what you say may be given in evidence".

Where the rule of inference is applicable in accordance with the provisions of the Criminal Code the caution shall be as follows:

"You do not have to say anything unless you wish to do so, but what you say may be given in evidence; however, should you refuse to say anything or omit to state some fact, a rule of inference amounting to corroborative evidence may be drawn by the Court or any other adjudicator if during the trial you will put forward any defence based on a fact which you did not state during interrogation".

PROCEDURES FOR QUESTIONING

5. Identification of Police Officers

The person conducting the interrogation and all other persons present shall identify themselves to the person being interrogated.

6. Recording of Caution

The fact that caution in Rule 4 is given shall be registered in the statement itself, and the person subject to questioning must be given the opportunity to sign at the end of the paragraph where such registration is made.

7. Details of Recording

When, after the caution is given, the person being interviewed decides to make a statement, a record should be kept of the following: the place where the statement is taken, the time the interrogation started and ended, every period of interruption, and the names of the persons present during the questioning.

The investigating officer shall always inform the suspect prior to any recorded statement of the offence which is being investigated.

8. Procedure for drafting of statement

As far as possible, the statement should contain the exact words used by the suspected person, without using "official" vocabulary. Where circumstances so indicate the suspected person should be allowed to write his own statement, and this fact shall be registered in the statement itself. The suspected person shall be invited to sign the statement. However, the "caution" shall always be registered at the beginning of the document even when the person being interviewed intends to write his own statement.

Do not forget that even if the statement is not signed, this may still be produced as evidence; however, the reason adduced by the person being questioned for not signing the statement shall be registered.

No blank spaces are to be left in the statement except for the side margins.

9. Statement to be read by criminal suspect

When the writing of a statement by a police officer is finished, the person making it shall be asked to read a copy of it and to make any further statement in which he may make any corrections, alterations or additions he wishes. If the interviewed person cannot or refuses to read the statement, the statement shall

be read to the suspected person. Following this, the suspected person shall be asked to sign it at the end and initial every page as well as any further statement which he decides to make.

10. Signing of Statement by Police

The interrogating officer shall sign the statement at the end, preferably below the signature, if any, of the person being questioned; the officer, and any other person assisting him shall sign a declaration to the effect that the statement has been read out to the person concerned who was also allowed to read a copy of it.

11. Registration in Records of Arrested Persons

Any interval during an interview shall be recorded. The records must also indicate the time/s when the person being questioned is given any food or drink. Any request made by the arrested person during questioning shall be registered in writing and such request shall form part of the custody records of the detainee.

12. Rule against Questioning during night

A person should only be questioned during the night when this is indispensable for the investigation or avoids prolonging the period of arrest. Sufficient time shall elapse between one interview and another to allow such person to rest. Questioning shall not proceed when the person detained is so fatigued that his powers of volition and comprehension are impaired.

13. Periods of Rest

In any period of 24 hours, the arrested person shall be allowed a continuous rest period of at least 8 hours, uninterrupted by any questioning, travel or interruption caused by the investigation. As a rule, this period shall be during the night. This period of rest shall not be interrupted or postponed unless there are valid reasons indicating that if there is no such interruption or postponement:

- (a) there would be a serious risk of injury to persons, or damage to or substantial loss of property;
- (b) the period of arrest would be unnecessarily prolonged;
- (c) the investigation would be seriously prejudiced.

No alcoholic drinks shall be given to the arrested persons, unless ordered by a doctor.

Breaks from interviewing shall be made at recognised meal times, short breaks for refreshment shall also be provided at intervals of approximately two hours, subject to the interviewing officer's discretion to delay a break if there are reasonable grounds for believing that it would:

- (a) involve risk of harm to persons or serious loss of, or damage to, property;
- (b) delay unnecessarily the person's release from custody;
or
- (c) otherwise prejudice the outcome of the investigation.

14. Stratagems

The use of a stratagem to lead a person to make a statement is not prohibited (e.g. "we already know everything about the case; your friends have already confessed").

15. Special attention for Juveniles

Special attention should be given when persons under 16 years of age are being interviewed. As far as possible, and if this is not prejudicial to the investigation, these persons should be interviewed in the presence of one of the parents, or their tutor, or in the presence of any other person, not being a member of the Police Force, who is of the same sex as the interviewed person, e.g. the person who has the effective care and custody of the young person, or a social worker.

Youths and children attending school or other educational institutions, should not, as far as possible, be arrested, or interviewed, at school. Where it is found essential to conduct the interview at school, this should be done in the presence of the head teacher.

16. Oppression

Any form of behaviour which may amount to inhuman or degrading treatment, or any form of physical or mental torture is not only prohibited but amounts to an offence under article 139A of the Criminal Code. The offence carries a punishment of a maximum of nine (9) years imprisonment.

Consequently all steps should be taken not only so that such behaviour does not occur, but also that no action be committed which may even give rise to allegations of ill-treatment.

Therefore,

- (a) the person being interrogated shall always and at all times be seated, if he so wishes, during the questioning;
- (b) foul language, threats, deprecatory laughter and menacing gestures are forbidden;
- (c) under no circumstances shall any person present during the questioning hold or exhibit any firearm or other weapon, even if jokingly; however, the detained person may be shown such firearms or weapons connected with the investigation, where this is necessary;
- (d) no person being questioned shall be bound by any rope, chain or other shackle, but may be handcuffed if this is reasonably justified for his own safety or that of others or to prevent his escape.

The investigating officer must keep in mind the particular circumstances of individual detainees and must take special care with particularly timid or frail persons that nothing is done that puts the voluntariness of the statement into doubt.

17. Interrogation of Handicapped Persons and other Persons

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- (a) If it appears to a Police Officer that a person whom he intends to interview has a mental handicap which raises a doubt as to whether the person can understand the questions put to him, or which makes the person likely to be especially open to suggestion, the officer should take particular care in putting questions and accepting the reliability of answers. As far as practicable, a mentally handicapped person should be interviewed only in the presence of a parent, or his tutor or other person, not being a member of the Police Force, who is of the same sex as the person being interviewed, e.g. the person who has the effective care and custody of the handicapped person or a social worker;
 - (b) any document reporting an interview with a mentally handicapped person (after the investigating officer shall have ascertained that the interviewed person was capable of making the statement) should be offered for signature not only to the handicapped person but also to the mother or father or other accompanying person present during the interview; care should be taken to verify the facts stated and to obtain corroboration where possible;
 - (c) in the case of potentially vulnerable persons, (e.g. persons under the influence of drugs, alcohol, medicine, or who are in a state of shock) precautions should be taken to ensure that the statement is made by them when they are able to appreciate the significance of the questions and their answers, and that the statement is not the result of undue influence by the interviewing officer.

The Commissioner shall draw up rules concerning interrogation, where there is reason for believing that the person is sick or deaf. The investigating officers shall not proceed to an interview without the prior intervention and certification of a medical practitioner, as to the suitability of conducting the interrogation.

18. Statements in languages other than Maltese or English

No person shall be questioned in the absence of an interpreter if such person -

- (a) does not understand the Maltese or English language; or
- (b) the person conducting the interview does not understand a language spoken by the interviewed person.

In the case of a person making a statement in a language other than Maltese or English:

- (a) the interpreter or the officer taking the statement should take down the statement in the language in which it is made;

- (b) a Maltese translation should be made in due course and be annexed as an exhibit with the original statement;
- (c) only the original statement need be offered to the person making the statement.

19. Effect of this Code

The lack of observance of any the provisions of this Code will not invalidate the statement taken, unless such non observance nullifies the voluntariness of the statement. However, disciplinary proceedings may be instituted against persons who do not observe the provisions of this Code.

20. Rules of Guidance

Finally it should be remembered that these guidance rules are being circulated not only to prevent the commission of anything prohibited by the Constitution or the law of Malta, but also to avoid any allegations by arrested persons of any improper treatment during their arrest. Consequently, the observance of these rules not only improves the image of the Police Force in the eyes of the public, but also ensures less problems for the Police to prove, in due course, the validity of statements made by arrested persons.

FIFTH SCHEDULE

[Article 121]

POLICE PENSIONS REGULATIONS, 1990

General Regulations

Short title.

1. These regulations may be cited as the Police Pensions Regulations, 1990.

Pensions to whom and at what rates to be granted.

2. Subject to the provisions of the Malta Police Act, hereinafter called the Act, and of these regulations, every Police officer, who has been in the Force for 10 years or upwards, may be granted a pension at the rate of one four-hundred and fiftieth of his pensionable emoluments for each complete month of pensionable service, subject to the limit described in article 125 of the Act.

Service to be unbroken.

3. The service in respect of which a pension may be granted must be unbroken, except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment, and not arising from misconduct or voluntary resignation:

Provided that any service prior to a break of service may be allowed to count for pension together with any service subsequent to such break:

- (a) if the whole intervening period has been spent in some other employment in the service of the Republic; or
- (b) in the case where such Police officer, having resigned from the Force, is subsequently recalled in the Force with the approval of the Prime Minister on account of

Added by:
X. 1990.3.
Amended by:
XIII. 2002.6;
L.N. 211 of 2004.

the exigencies of the Force, and such recall is certified by the Prime Minister.

4. (1) For the purpose of computing the amount of the pension of a Police officer who has had a period of not less than three years' pensionable service under the Act before his retirement -

Emoluments to be taken for computing pension.

- (a) in the case of a Police officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;
- (b) in the case of a Police officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by the grant of any scale increments, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;
- (c) in other cases one third of the aggregate pensionable emoluments enjoyed by the Police officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken:

Provided that -

- (i) if such one third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years those annual pensionable emoluments shall be taken; and
- (ii) if such one third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion of the Prime Minister would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under subregulation (1) the pensionable emoluments that a Police officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed -

- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and
- (b) to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of

any office held by him as if such increase has been payable throughout such period of three years.

(3) For the purpose of computing the amount of the pension of a Police officer who has had a period of less than three years' pensionable service before his retirement -

- (a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period;
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period; and
- (d) any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the President, and during which he has not qualified for pension in respect of other public service.

(4) In no circumstances shall the pensionable emoluments to be taken exceed the full annual pensionable emoluments enjoyed by the Police officer at the date of his retirement in respect of the office then held by him.

(5) In the case of a Police officer to whom regulation 5(1)(d) applies, the date of retirement shall:

- (a) where such officer reaches the age of retirement; or
- (b) where such officer would have but for his dismissal completed 25 years' service; or
- (c) where such officer dies;

before his dismissal has been declared null by the competent authority, be deemed to be the day on which he reaches the age of retirement, or the day on which he would have completed 25 years' service, or on which he died, whichever is the earlier, and his pensionable emoluments to be taken into consideration shall be those which he would have been receiving on such date had he not been so dismissed.

Computation of pensions.

5. (1) For the purpose of computing the amount of a Police officer's pension the following periods shall be taken into account as pensionable service:

- (a) any periods during which he has been on duty;
- (b) any period during which he received half salary;
- (c) any periods during which he has been absent from duty on leave with full or half salary;
- (d) any period following dismissal from the Force, where such dismissal is subsequently declared to have been invalid by a competent authority, up to the time of reinstatement, or the date when such Police officer would have completed 25 years' service, or the day on

which such Police officer would have to retire because of age, or the date when such officer dies, whichever is the earlier.

And any periods during which he has been absent on leave other than those specified above shall be deducted from the officer's total service in order to arrive at his period of pensionable service.

(2) For the purposes of subregulation (1)(d) of this regulation and for the purposes of regulation 4(5), the term "dismissal" shall be deemed to include "compulsory retirement on the ground of public interest", and the term "dismissed" shall be construed accordingly.

6. Where an officer has performed acting service in a pensionable office in the Force, the period of such service may be taken into account as pensionable service under the Act: Acting service.

Provided that -

- (a) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the officer's own pensionable service under the Act in the Force;
- (b) this period of service is immediately preceded or followed by service in a substantive capacity in the Force.

7. If a Police officer retires or is removed from the Force in consequence of the abolition of his office, or for the purpose of facilitating improvements in the Force, by which greater efficiency and economy can be effected, he may be granted a pension: Abolition or reorganization of office.

Provided, however, that if he has been in Force for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with regulation 2 as if there had been no qualifying period:

And provided also that the grant of such pension shall be subject to the condition that he shall be liable to be recalled to service in the Force:

Provided further that if such a Police officer is not qualified for other employment in the Force or if there is no reason, in the opinion of the Prime Minister, to expect that he can be shortly re-employed, a pension may be granted to him free from the above-mentioned condition.

8. A Police officer whose office is abolished may be granted an increase of his pension at the rate of one-sixtieth part of his annual pensionable emoluments for each complete period of three years' pensionable service: Rates of pension when offices are abolished.

Provided -

- (a) the addition shall in no case exceed ten sixtieths; and
- (b) no addition shall be made so as to qualify an officer

for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age at which he may be required to retire, or for a pension of higher annual value than the maximum prescribed in article 125 of the Act.

Officers retiring on account of injuries.

9. (1) Where a Police officer has been permanently injured -
- (a) in the actual discharge of his duty, and
 - (b) without his own default, and
 - (c) by some injury specifically attributable to the nature of his duty,

and his retirement is thereby necessitated or materially accelerated, he may, if he is qualified for a pension under regulation 2, be granted, in addition to the pension granted to him under that regulation, an additional pension at the rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table:

When his capacity to contribute to his own support is -

slightly impaired	five-sixtieths;
impaired.....	ten-sixtieths;
materially impaired	fifteen-sixtieths;
totally destroyed	twenty-sixtieths:

Provided that the amount of the additional pension shall be reduced to such an extent as the Prime Minister shall think reasonable in the following cases:

- (i) where the injured Police officer has continued to serve for not less than one year after the injury in respect of which he retires;
- (ii) where the injured Police officer is at the date of injury within ten years of the age at which he may be required to retire; or
- (iii) where the injury is not the sole cause of retirement, but the retirement is caused partly by age or infirmity not due to the injury:

Provided also that the total amount of the additional pension shall not exceed the amount prescribed in article 125(2) of the Act.

Pensions to officers when service is less than 10 years.

(2) A Police officer so injured, whose length of service is not such as to qualify him for a pension under regulation 2, may nevertheless be granted a pension at the rate of one four-hundred and fiftieth of his pensionable emoluments for each complete month of pensionable service together with such additional pension as might be awarded to him under the preceding part of this regulation if he were qualified for pension.

10. (1) Where a Police officer without his own default has been killed in the actual discharge of his duty or has died from such injury specifically attributable to the nature of his duty or has been killed while in the actual discharge of his duty, a pension may be granted to his widow, while unmarried not exceeding ten-sixtieth of the husband's pensionable emoluments at the day of injury; and a pension may be granted to each child of such officer, until such child attains the age of eighteen years, not exceeding one-sixth of the rate awardable to the widow, so long as the aggregate of the children's pensions do not exceed the rate awardable to the widow.

Pension to widows of officers, killed in the discharge of duty.

(2) The foregoing provision shall apply also in case the officer, after he shall have been pensioned under regulation 9, dies from the direct and immediate effects of the injury sustained.

(3) If the officer's wife predeceases him, or if no pension is granted to her under this article, and he leaves children who would have been eligible for pension, if a pension had been granted to the widow, pensions may be granted to them of twice the amount of the pensions for which they would have been eligible in the circumstances.

(4) If the deceased does not leave a widow or motherless children, but leaves a mother who was wholly dependent on him for maintenance, the award which might have been made to the widow had there been one left, may be made to the mother, but it shall cease, if she be widow, in case of remarriage.

11. (1) Pensions, computed at the rates before mentioned, shall only be granted in case of decidedly faithful and meritorious service.

Good conduct required.

(2) Where the fidelity and diligence of the officer fall short of the first degree of merit the computation may be made at lower rates.

12. Pensions, gratuities and allowances payable under these regulations shall also be payable to the person entitled thereto in other Member States of the European Community net of any taxes and transaction charges in accordance with Article 5 of Council Directive 98/49/EC of the 29th June, 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community.

Cross-border payments.
Added by:
L.N. 211 of 2004.

13. Where any Police officer to whom these regulations apply is posted in another Member State of the European Community, such Police officer shall be entitled to receive adequate information as to his rights under regulation 12.

Information to persons entitled to pension.
Added by:
L.N. 211 of 2004.