

**POLICE ACT****Repealed by Act. 2006-20 as from 22.2.2007****Principal Act**

<b>Act. No. 1961-20</b>	<i>Commencement</i>	1.1.1962
	<i>Assent</i>	4.5.1961

Amending enactment	Relevant current provisions	Commencement date
Acts. 1962-22	s.50	
1963-10	s.4	
1967-16	ss.49 and 52A	
Order of 16.9.1969	s.18	
Acts. 1972-14	s.5A	
1983-12	s.51	
1983-49	s.5(1)	
1987-34	ss 4(e)(f) and 52A	27.12.1987
1988-15	Part VIIIA ss. 48A and 48B.	23.6.1988
1990-20	s. 51	7.6.1990
1991-13	ss 34, 35 and 50.	6.6.1991

English sources  
None cited

**POLICE ACT.**

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AN ACT TO MAKE PROVISION FOR THE ORGANIZATION, DISCIPLINE, POWERS AND DUTIES OF THE GIBRALTAR POLICE FORCE, AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

**Short title.**

1. This Act may be cited as the Police Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires,—

“Commissioner” means the Commissioner of Police;

“Deputy Commissioner” means the Deputy Commissioner of Police;

“the Force” means the Police Force established under this Act and designated the Gibraltar Police Force;

“member of the Force” means any member of the Gibraltar Police Force;

“Police Association” means the Gibraltar Police Association established under this Act;

“police officer” means any member of the Force;

“Police Reserve” means the Gibraltar Police Reserve established under this Act;

“standing orders” means all orders issued by the Commissioner under this Act for the instruction and guidance of the members of the Force.

**PART I.—CONSTITUTION AND EMPLOYMENT  
OF THE FORCE.**

**Establishment Of the Force.**

3. There shall continue to be established in Gibraltar a Police Force, to be known as the Gibraltar Police Force.

**Objects of the Force.**

4. The Force shall be employed in and throughout Gibraltar for—

- (a) the preservation of the peace;
- (b) the maintenance of law and order;
- (c) the prevention and detection of crime;
- (d) the apprehension and guarding of offenders;
- (e) the protection of property.

**Composition of the Force.**

5.(1) The Force shall consist of such numbers of the following ranks as the Governor may direct, in order of seniority as shown :—

Commissioner of Police.  
Deputy Commissioner of Police.  
Chief Superintendents.  
Superintendents.  
Chief Inspectors.  
Inspectors.  
Sergeants.  
Constables.  
Probationary Constables.

(2) Police officers holding the same rank shall, unless the Governor otherwise directs, stand in order of precedence and command according to their seniority reckoned by the date of their appointment to that rank.

(3) The Governor may, by notice in the Gazette, amend the list of ranks specified in subsection (1) by adding ranks thereto or by deleting ranks therefrom or by varying the title of any rank.

(4) The Governor may, by notice in the Gazette, declare that any rank specified in subsection (1) shall be deemed to be included in any existing rank for the purpose of the interpretation of this Act.

**Police cadets.**

5A.(1) It shall be lawful for the Commissioner, with the prior approval of the Governor, to enlist so many fit and proper persons as police cadets, to undergo training in the Force, as the Governor shall from time to time authorize.

(2) The Commissioner may, with the approval of the Governor, make regulations for the government, administration and conditions of service of

police cadets and in particular but without prejudice to the generality of the foregoing may make regulations regarding –

- (a) the appointment and dismissal of police cadets;
- (b) the rank and remuneration of police cadets;
- (c) the terms of service and discipline of police cadets;
- (d) the training and administration of police cadets;
- (e) the duties and responsibilities of police cadets;
- (f) the uniform and equipment of police cadets;
- (g) the application of this Act and standing orders to police cadets.

**Powers and duties of the Commissioner.**

6. The Commissioner shall, subject to the provisions of this Act, have command, superintendence and direction of the Force, and shall be responsible for the efficient administration and government of the Force and for the proper expenditure of all public moneys appropriated for the service thereof.

**Appointment of police officers.**

7.(1) The Governor may appoint fit and proper persons to be Commissioner of Police and Deputy Commissioner of Police.

(2) Subject to the provisions of this Act, the Commissioner may, with the approval of the Governor, make such appointments, promotions and reductions in rank and grades as he may think fit.

**Deputy Commissioner.**

8. The Deputy Commissioner shall act as principal assistant to the Commissioner in the performance of his duties in respect of the Force. Any act or thing which may be done, ordered or performed by the Commissioner may, during the absence or incapacity of the Commissioner or to the extent to which he is authorized by the Commissioner, be done, ordered or performed by the Deputy Commissioner.

**Pay and allowances.**

9. The members of the Force shall receive such pay and allowances as may be assigned to them from time to time by the Governor.





13.(1) Where the defence to any suit instituted against a police officer is that the act complained of was done in obedience to a warrant purporting to be issued by the Chief Justice, the Judge of the Court of First Instance, the Stipendiary Magistrate, a justice of the peace or any officer of any court, the court shall, upon production of the warrant containing the signature of any such person, accept such warrant as prima facie evidence of the due making thereof, and upon proof that the act complained of was done in obedience to such warrant, enter judgment in favour of the police officer.

(2) No proof of the signature of such person shall be required unless the court has reason to doubt the genuineness thereof; and if it shall be proved that such signature is not genuine, judgment shall nevertheless be given for the police officer if it is proved that at the time when the act complained of was committed, he believed on reasonable grounds that such signature was genuine.

**Salary of police officer not to be attached.**

14. No salary or allowance paid to any member of the Force shall be liable to be attached, sequestered or levied upon for or in respect of any debt or claim for any money borrowed by him or any goods supplied to him or to any person on his behalf while he is a member of the Force.

**General duties of the Force.**

15. It shall be the duty of all members of the Force—

- (a) to preserve the peace and prevent and detect crime and other infractions of the law;
- (b) to apprehend and bring before a justice of the peace persons found committing any offence rendering them liable to arrest without warrant, or whom they may reasonably suspect of having committed any such offence, or who may be charged with having committed any such offence;
- (c) to summon before a justice of the peace and to prosecute persons reasonably suspected of having committed offences, where an order to that effect is made by the Attorney-General or the Commissioner, either generally or in any particular case or class of cases;
- (d) to serve and execute at any time all process which they may be directed by any competent authority to serve or execute;
- (e) to keep order in and within the precincts and in the vicinity of all courts during all sittings of such courts;

- (f) to collect and communicate to his superior officers intelligence affecting the public peace or public security;
- (g) to take all steps necessary to prevent the commission of offences and public nuisances;
- (h) to obey all lawful orders of his superior officers; and
- (i) generally, to do and perform all the duties appertaining to the office of a police officer or constable.

**Commissioner to direct duties.**

16.(1) A member of the Force shall perform such duties in Gibraltar as the Commissioner may direct.

(2) Any member of the Force, if so directed by the Commissioner, shall undertake such duties outside Gibraltar as may be necessary for the due performance of the duties imposed upon the Force by section 4.

**Police officers deemed to be always on duty.**

17. For the purposes of this Act and any other law, police officers shall be deemed to be always on duty when required to act as such.

**Engaging in trade or business.**

18. No member of the Force shall, while he holds such appointment, engage in any private business or trade without the prior consent in writing of the Deputy Governor.

**Police officers may be armed.**

19. Notwithstanding any provision of any other law, it shall be lawful for a police officer, when performing his duties as such, to be armed.

**PART III.—MEMBERSHIP OF ASSOCIATIONS, ETC.**

**Formation of Police Association.**

20. There is hereby established a body to be known as the Gibraltar Police Association.

**Membership of Police Association.**

21. All police officers below the rank of Deputy Commissioner shall be members of the Police Association.

**Objects of Police Association.**

22. The objects of the Police Association shall be to enable police officers to consider and bring to the notice of the Commissioner matters affecting the welfare and efficiency of the Force, other than questions of promotion affecting individuals and questions of discipline.

**Police Association to be independent.**

23. The Gibraltar Police Association shall be entirely independent of and unassociated with any body or person outside the Force .

**Definition of prohibited Association.**

24. For the purposes of this Part—

“prohibited association” means –

- (a) any league or association or body of persons, whether registered or not, which has for its objects or one of its objects, the promotion of feelings of ill will and hostility between different classes or races;
- (b) any other association, society, club or body of persons, any of the objects of which may be subversive of good discipline on the part of a member of the Force, and which the Commissioner shall, with the approval of the Governor, declare to be a prohibited association.

**Penalty for offences in connection with prohibited associations.**

25.(1) It shall not be lawful for—

- (a) any member of the Force to be or become a member of any prohibited association; or
- (b) any prohibited association to permit any member of the Force to receive any benefit, financial or otherwise, from the association or for any such association to receive any money from a member of the Force.

(2) If there is any contravention of the provisions of this section, the member of the Force, the association, and every officer of the association who is knowingly a party to such contravention is guilty of an offence and is liable on summary conviction to a fine of £25.

**Prohibition against membership of trade unions.**

26.(1) Except as regards membership of the Police Association, it shall not be lawful for a member of the Force to become a member of any trade union, or of any association having for its objects, or one of its objects, the controlling or influencing of the pay, pensions, or conditions of service of the Force and any member of the Force who contravenes this provision shall be disqualified from continuing to be a member of the Force; and, if any member of the Force continues to act as such after becoming so disqualified, he shall forfeit all pension rights and be disqualified from being thereafter employed in the Force.

(2) If any question arises whether any body is a trade union or an association to which this section applies, the question shall be determined by the Registrar of Trade Unions, whose decision shall be final.

**PART IV.—GENERAL ADMINISTRATION.**

**Standing orders.**

27.(1) The Commissioner may from time to time issue standing orders, not inconsistent with this Act, for any of the following purposes, that is to say:-

- (a) the duties to be performed by members of the Force;
- (b) the description and issue of uniforms, equipment and any other article necessary for the use of the Force;
- (c) the training of the Force;
- (d) the management and good government of all police buildings, accommodation, stores and furniture;
- (e) the posting of all members of the Force and the duties to be performed by them;
- (f) the management of police canteens and recreation rooms;
- (g) the welfare of members of the Force;
- (h) such other matters as may be necessary for preventing abuse or neglect of duty, for rendering the Force more efficient in the discharge of its duties and for carrying out the objects of this Act.

(2) Every such standing order—

- (a) shall be subject to the approval of the Governor; and
- (b) shall be brought to the notice of every member of the Force, but need not be published in the Gazette.

**Withdrawal from the Force.**

28. No member of the Force shall be at liberty to withdraw himself from the Force until after the expiration of three months at least from the time when he gives to the Commissioner notice in writing of his intention to do so: -- Provided that the Governor may in special circumstances allow a member of the Force to withdraw from the Force at any time between the giving of such notice and the expiration of such period of three months.

**Penalty for illegal withdrawal.**

29. A member of the Force who withdraws himself at any time from the Force without the permission of the Commissioner, or without giving to the Commissioner a valid notice of his intention to withdraw himself from the Force, or before the expiration of any valid notice, shall be deemed to have illegally withdrawn himself from the Force, and is guilty of an offence and is liable on summary conviction to imprisonment for two months or to a fine of £50.

**Proving withdrawal with permission.**

30. It shall be sufficient in any charge or complaint for an offence against section 29 to state that the person proceeded against, being then a member of the Force, did illegally withdraw himself from the Force, and the onus of proving that any withdrawal was with the permission of the Commissioner and that a valid notice was given shall be on the person proceeded against.

**Warrant to arrest police officer illegally withdrawing from the Force.**

31. Any justice of the peace, on a complaint being made to him on oath by any police officer that any member of the Force has illegally withdrawn himself from the Force and that there is reasonable cause to suspect, that such member of the Force is concealed in his own premises or on the premises of any other person, or is on board of any vessel within the limits of Gibraltar, shall grant to such police officer a warrant to search, with proper assistance, the premises or vessel in which such member of the Force is suspected of being concealed and, if found, to arrest him in order that he may be dealt with according to law.

**Return of equipment and clothing.**

32. Whenever any member of the Force ceases to belong to the Force either by being dismissed therefrom or by being discharged at his own request, or as unfit for further service, he shall deliver over his uniforms and any other equipment which may have been supplied to him at such time and place and to such person as shall be directed by the Commissioner. If he fails to produce, or to account satisfactorily for the absence of, such clothing or equipment he is guilty of an offence and is liable on summary conviction to pay the value of the same, or in default of payment to be imprisoned for one month. If such failure to produce or to account satisfactorily be in the opinion of the court wilful, the defaulter is guilty of an offence and is liable on summary conviction to a fine of £20.

#### **PART V.—DISCIPLINE.**

##### **Method of dealing with offences by police officers.**

33.(1) Any offence committed by a member of the Force, with respect to which criminal proceedings are not instituted in a court of competent jurisdiction, shall be dealt with and punished in accordance with the provisions of this Act and any regulations and, subject to the provisions of section 36, in accordance with Colonial Regulations and Government General Orders.

- (2) In this Part “offence” means—
- (a) any offence against any other law;
  - (b) any offence against, contravention of or failure to comply with this Act;
  - (c) any offence against, contravention of or failure to comply with standing orders.

##### **Police officers guilty of offences.**

34. A police officer who is guilty of any offence shall be liable on conviction in such manner and before such person as may be prescribed by regulations to any of the punishments prescribed by regulations.

##### **Absence without leave.**

35. Absence without leave shall entail loss of pay for the period of absence, in addition to such other punishment as may be awarded. For the purpose of computing the number of days of absence without leave any part of a day shall count as a whole day.

##### **Application of Colonial Regulations and General Orders.**

36. All members of the Force, in respect of any matter not provided for in this Act shall be subject to the provisions of Colonial Regulations and Government General Orders from time to time in force.

#### **PART VI.—POLICE REWARD FUND**

##### **Establishment of the Fund.**

37. There is hereby established a Police Reward Fund.

##### **Sums to be paid into the Fund.**

38. There shall be paid into the Police Reward Fund—

- (a) *Omitted;*
- (b) *Omitted;*
- (c) all fines imposed under this Act for any offence;
- (d) all rewards, forfeitures and penalties payable by law to any informer, if such informer is a police officer;
- (e) any sums which, under the provisions of section 50, are directed to be paid to the finder of unclaimed property, if such finder is a police officer;
- (f) fines imposed by any court for assaults upon police officers.

##### **Payments out of the Fund.**

39.(1) No payment shall be made from the Police Reward Fund except upon the authority of the Commissioner.

(2) The Commissioner may, in his discretion, sanction payments from the Police Reward Fund for any of the following purposes —

- (a) payments to police officers below the rank of Inspector as rewards for meritorious acts or service in the execution of duty, if such payments are not authorized to be met from any other fund;
- (b) assistance to the wives or families of deceased police officers of or below the rank of Superintendent or to any such police officers discharged from the Force as medically unfit for further service;

- (c) expenditure for the benefit and advancement of authorized recreation and sport and other branches of police activity organized within the Force;
- (d) the purchase of ammunition for the encouragement of range practice among police officers; and
- (e) expenditure for the benefit and advancement of education organized within the Force.

**Account of the Fund.**

40. An account shall be kept by the Commissioner, in such form as the Principal Auditor may approve, of all sums received by him and of all disbursements made by him in relation to the Police Reward Fund and such account shall be duly audited by the Principal Auditor.

**PART VII.—SPECIAL CONSTABLES.**

**Enlistment of special constables.**

41. It shall be lawful for the Commissioner, with the prior approval of the Governor, to enlist so many fit and proper persons as special constables as the Governor shall from time to time authorize.

**Powers, etc., of special constables.**

42. Special constables when on duty as such shall be deemed to be members of the Force and shall have all the powers, privileges, liabilities and duties which are conferred or imposed upon police officers or constables by any law.

**Compulsory service.**

43. When the Governor shall declare by notice in the Gazette that the public interest so requires, it shall be lawful for the Commissioner to call upon any special constables to serve in such manner as the Commissioner shall deem fit, and any special constable so called upon to serve who neglects or refuses to serve as a special constable or to obey such lawful orders and directions as may be given to him for the performance of the duties of his office is guilty of an offence and is liable on summary conviction to a fine of £10, unless he proves to the satisfaction of the court that he was prevented by sickness or such other unavoidable accident as in the judgment of the court shall be a sufficient excuse.

**Regulations for special constables.**



44. The Commissioner may, with the approval of the Governor, make regulations with respect to special constables and in particular, but without prejudice to the generality of the foregoing, may make regulations regarding—

- (a) the appointment and dismissal of special constables;
- (b) the rank and remuneration of special constables;
- (c) the terms of service and discipline of special constables;
- (d) the training and administration of special constables;
- (e) the duties and responsibilities of special constables;
- (f) the uniform and equipment of special constables;
- (g) the application of this Act and standing orders to special constables, provided always that Part III shall not apply to special constables.

#### **PART VIII.—POLICE RESERVE.**

##### **Establishment of Police Reserve.**

\*45.(1) The Governor may establish a Police Reserve, to be known as the Gibraltar Police Reserve.

- (2) The Police Reserve shall be part of the Force.

##### **Appointment of police reservists.**

46. It shall be lawful for the Commissioner, with the prior approval of the Governor, to enlist so many fit and proper persons as members of the Police Reserve as the Governor shall from time to time authorize.

##### **Powers, etc., of police reservists.**

47. Police reservists when on duty as such shall be deemed to be members of the Force and shall have all the powers, privileges, liabilities and immunities which are conferred or imposed upon police officers or constables by any law.

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\* *The Gibraltar Police Reserve was established with effect from 1st March, 1962 by Notice dated 27th February, 1962.*

**Regulations for Police Reserve.**

48. The Commissioner may, with the approval of the Governor, make regulations for the Police Reserve and in particular but without prejudice to the generality of the foregoing, may make regulations regarding—

- (a) the appointment, retirement and dismissal of police reservists;
- (b) the rank and remuneration of police reservists;
- (c) the terms of service and discipline of police reservists;
- (d) the training and administration of the Police Reserve;
- (e) the duties and responsibilities of police reservists;
- (f) the uniform and equipment of police reservists;
- (g) the application of this Act and standing orders to police reservists.

**PART VIIIA – CIVILIAN EMPLOYEES**

**Commissioner may employ civilians.**

48A.(1) The Commissioner may, with the approval of the Governor, employ, or enter into contracts for the employment of, civilians to exercise such functions and duties as are conferred or imposed upon police officers by any law and are specified in terms of the employment.

(2) A civilian employed in pursuance of subsection (1), while acting in the exercise of the functions and duties mentioned therein, shall for that purpose only, be regarded, liabilities and duties, except power of arrest, as are conferred or imposed upon police officers by any law.

(3) The Governor's approval mentioned in subsection (1) may be given with respect to a particular individual or contracts or a class of such individuals or contracts.

**Regulations for civilian employees.**

48B. The Commissioner may, with the approval of the Governor, make regulations with respect to civilians employed in pursuance of section 48A(1) and the provisions of section 44 shall apply to such regulations as they apply to regulations mentioned in that section.

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**PART IX.—DISPOSAL OF PROPERTY****Power to make orders with respect to property in possession of Police.**

49. Where any property has come into the possession of the Police in connection with any criminal charge or under section 23 or 35 of the Criminal Procedure Act, or section 31 of the Pawnbrokers Act, the magistrates' court may, on the application either by a member of the Force or by a claimant of the property make an order for the delivery of the property to the person appearing to the court to be the owner thereof, or, if the owner cannot be ascertained, make such order with respect to the property as the court may think fit.

**Unclaimed property.**

50.(1) Subject to the provisions of any other Act it shall be the duty of every police officer to take charge of all unclaimed property and to furnish an inventory or description thereof to the Commissioner of Police.

(2) The Commissioner of Police may make rules for the proper storage and disposal of any unclaimed property and, without prejudice to the generality of the foregoing, such rules may provide—

- (a) for the periods after which unclaimed property may be disposed of;
- (b) for the notification of the intention to dispose of such property and the method of its disposal;
- (c) for the distribution of the proceeds of disposal of such property.

(3) The magistrates' court may also make such order as to such property as it may deem fit, including an order for detention, sale by auction or private treaty for the benefit of any person who may claim property or that such property be destroyed.

(4) The right to take legal proceedings for the recovery of such property or the proceeds of such sale shall cease if no person establishes within six months from the date of the notice his claim to such property or money.

(5) At the expiration of six months from the date of such notice the property or the proceeds of sale of such property shall, after deduction of any expenses incurred in connection therewith, be paid or returned to the finder of such property, provided he claims the same from the Central Police Station not later than nine months from the date of such notice.

(6) If at the expiration of three months from the date of expiry of such notice no claim has been made by the finder, the police shall refer the matter to the magistrates' court which shall be at liberty to order any property other than money to be destroyed or sold by auction or private treaty. The proceeds therefrom and any other unclaimed money shall forthwith be paid into the Police Reward Fund after deduction of any expenses incurred.

**PART X.–GIBRALTAR SERVICES POLICE.**

**Gibraltar Services Police.**

51.(1) All civilian police in the employment of the Ministry of Defence shall, when on duty as such, have all the powers, privileges, liabilities and immunities which are conferred or imposed upon police officers by this Act or by any other law.

(2) The term “civilian police in the employment of the Ministry of Defence” means such officers as are appointed to carry out duties in the Upper Rock area and in such other areas of Gibraltar as the Governor\* may from time to time direct.

**PART XI.–MISCELLANEOUS.**

**Regulations.**

52.(1) The Commissioner may, subject to the provisions of this Act, make regulations relating to all or any of the following matters, that is to say:–

- (a) the discipline and punishment of members of the Force;
- (b) the conduct of disciplinary proceedings;
- (c) the establishment, constitution and powers of the Disciplinary Board;
- (d) the constitution, procedure and functions of the Police Association;
- (e) the appointment of police officers and the promotion and reduction in rank of police officers;

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\* *The Governor has deputed to the person for the time being holding the office of Commissioner of the Police the exercise of the powers conferred on him by section 51(2) of the Police Ordinance subject to the qualification that such deputation shall not preclude the exercise by the Governor of such powers. (LN. 1991/017)*

- (f) the treatment of persons detained or confined in any police building;
- (g) the taking of measurements, photographs and fingerprint impressions of persons in lawful custody;
- (h) prescribing anything which by this Act is to be or may be prescribed; and
- (i) generally for the good order and government of the Force.

(2) No such regulation shall have effect until it has been approved by the Governor and published in the Gazette.

**Charges for ambulance service.**

52A. It shall be lawful for the Commissioner to make such charges as may be prescribed for the use of the ambulance service referred to in section 4.

**Application of Act to persons already in the Force.**

53. All police officers who at the date of commencement of this Act were serving in the Force shall be deemed to have been appointed under and subject to the provisions of this Act.