

Subsidiary Legislation made under s.52.

Police (Discipline) Regulations 1991**LN.1991/090**

| | | <i>Commencement</i> | 19.2.1990 |
|---------------------|--|---------------------|------------------|
| Amending enactments | Relevant current provisions | Commencement date | |
| LN.1993/105 | r. 8 | | 10.6.1993 |
| 1997/050 | r. 15(3) | | 22.5.1997 |
| 2000/015 | rr. 5(c)-(d), 6(c), 7(a)-(h). | | 2.3.2000 |
| 2005/070 | r. 14(3). | | 21.4.2005 |
| 2010/129 | rr. 2, 5(b), (c), (i), 6, 7(a)-(c), (g), 8(c), (e)-(f), (h), 11, 13, 14(2), (3)(b)(ii), (c), 15, 19(1)-(3), 20-22, Sch. 1, 6 | | 22.7.2010 |
| Act.2019/21 | r. 7(g) | | 25.7.2019 |
| LN.2021/241 | rr. 2, 5(b), (c)(i), 6(a), 7(c), 11(1)-(2), 13(2)-(3), 14(2), 15(1), Sch. 6 | | 22.4.2021 |

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In exercise of the powers conferred on me by section 52 and after having the approval of the Governor, I have made the following regulations -

Title and commencement.

1.(1) These regulations may be cited as the Police (Discipline) Regulations 1991.

(2) These regulations shall be deemed to have come into operation on the 19th day of February 1990.

Application.

2. These regulations apply to all members of the Police Force (other than the Commissioner or the Assistant Commissioner) appointed under section 32(1) or 36(1) of the Police Act 2006.

3. Nothing in these regulations shall exempt a member of the Police Force from the provisions, of Colonial Regulations and Government General Orders from time to time in force; these Regulations are intended to replace section 7 of Chapter 2 of General Orders in respect of offences against the Discipline Code in Schedule I to these Regulations if committed by those Members of the Police Force to whom these Regulations apply; apart from this however, should anything in these Regulations conflict with General Orders, then the terms of the General Orders will prevail.

PART II

Discipline Offences.

4.(1) (a) A member of the Police Force commits an offence against discipline if he commits an offence set out in the Discipline Code contained in Schedule 1 hereto.

(b) Throughout these Regulations, the term “offence” should be understood to mean an offence against discipline as defined in this Regulation.

(c) For many disciplinary, offences (depending on the terms in which they are framed in the Discipline Code), the mental element necessary for a finding of guilt is less than that for most criminal offences: the offence may, for instance, be made out if the act in question was committed through lack of due care.

(d) Proceedings for the offence of discreditable conduct should be brought sparingly. Wherever possible, a more specific charge under one of the other paragraphs of the Discipline Code should be laid, and a charge of discreditable conduct should not be added to a charge under another paragraph unless it is based on facts distinct from those underlying that other charge. This applies with particular force where

the officer concerned was off duty when the alleged misconduct took place. Those responsible for bringing charges should bear in mind that certain types of conduct might reasonably be said to bring discredit on the police service when committed by an officer on duty, but not otherwise. This is must be treated on its own merits.

- (e) An illicit or, irregular sexual relationship between a police officer and another person is not of itself discreditable conduct within the meaning of the Discipline Code. Here again it is necessary to examine carefully the particular circumstances of each case in order to decide whether discredit to the police force or police service is likely.
 - (f) The offence of discreditable conduct is committed where an officer acts in a manner likely to bring discredit on the reputation of the police force or service. If the conduct is known about outside the force it will be necessary to establish only that it is reasonably likely to bring discredit. But the offence may be proved even if the conduct is not known about outside the force provided that it is reasonably likely to become known about at some stage, and that such discredit will result if this occurs. Where it is in practice unlikely that the conduct will become known about outside the force, it will be appropriate to bring a charge of discreditable conduct only where the officer has behaved in a disorderly manner or in a manner prejudicial to discipline.
 - (g) The Disciplinary Code at paragraph 3 provides a good defence to a charge of disobedience to orders where an officer has “good and sufficient cause” not to obey an order. Thus an officer does not commit this offence if his reason for failing to carry out an order was that he did not know of it and had a good reason for not knowing of it - for example, because it had not been properly communicated or promulgated.
 - (h) A disciplinary charge of falsehood or prevarication should not in general be based on any mis-statement contained in a personal explanation made by an officer in response to Paragraph 9 of these Regulations or any written or oral statement made by the officer at an earlier stage of a disciplinary enquiry. But to this rule there are exceptions. Such a charge would be appropriate, for instance, if a falsehood used as a “means of covering up” was more reprehensible than the original offence as when an officer attempts to implicate an innocent colleague as a means of diverting suspicion, from himself. In such a case it is reasonable to see the falsehood as a distinct and, separate element in the officers misconduct, deserving disciplinary action.
- (2) The required standard of proof in disciplinary proceedings is the the same as that in a criminal trial. Thus in order for an officer to be found guilty at a disciplinary hearing, the

offence must be proved beyond a reasonable doubt and not as in civil proceedings on the balance of probabilities.

(3) It is not necessary to follow exactly the procedures of a criminal trial, and in particular a disciplinary hearing need not be bound by technical rules of evidence. Where documentary evidence (such as copies and plans and transcripts of court proceedings) are accepted by both sides, it is not necessary to prove such evidence formally. Great care should, however, be taken with hearsay evidence, which is to be defined as unsubstantiated statements offered by witnesses based upon what someone else has said and not upon personal knowledge or observation. Such evidence should be admitted only under the following conditions. First, there should be reasons which make it impracticable for the originator of the evidence (i.e. the person who passed the hearsay information to the hearsay witness) to give evidence himself, for example because he has gone overseas for a protracted period. Secondly, the evidence should clearly be relevant to the charge or charges. Thirdly, every effort should be made not only to test the reliability of the evidence, for example by comparing it with the available direct evidence, but also to assess the reliability of the witness himself insofar as this is possible. Even where these conditions are satisfied, and the evidence is admitted, the presiding officer should treat it with caution and, in his statement of finding and/or punishment, should specify the extent to which he relied on it in reaching his decisions.

(4) Statements taken from my person which include, material not relevant to the disciplinary charge(s) or not capable of proof should, as far as practicable, be edited to remove such material. The purpose of this is to avoid prejudicing the disciplinary authority by the introduction of extraneous matter. It should be borne in mind that blank spaces or over markings in a copy of the statement, can themselves indicate that prejudicial material has been removed or hidden. The editing should therefore be done in such a way as not to reveal that it has taken place, for example by re-typing of the full, edited statement.

Minor Offences.

5. (a) Every member of the Force to whom these Regulations apply should be under the day-to-day supervision of a line manager (who should normally be at least one rank senior to him in the chain of command) and it should be the responsibility of line managers to deal with minor breaches of discipline without recourse to the procedures in these Regulations;
- (b) where an allegation of a breach of the Disciplinary Code is made by a Police Officer, it should be referred in the first instance to the line manager of the officer alleged to have committed the breach, and the line manager shall, after consultation with the Assistant Commissioner, decide whether to deal with the case summarily, or to refer it to an investigating officer in accordance with Regulation 6 hereunder.

- (c) where an allegation is made by someone other than a member of the Force in accordance with regulation 7, it shall be referred to a sub-committee of the Police Complaints Board established under regulation 7(h) consisting of one police officer not below the rank of chief inspector and one independent member shall decide, taking account of the secretary's record and any written response made under regulation 7(d), whether—
- (i) the offence is minor and, if the complainant is in agreement, shall recommend to the Assistant Commissioner that the case be dealt with summarily by the line manager of the officer concerned; or
 - (ii) the offence is sufficiently serious to be referred to the investigating officer appointed under regulation 7(c) for full investigation.
- (d) The decision of the sub-committee shall be communicated to the complainant who shall have the right at any time in the proceedings, of appeal to the Police Commissioner, if he believes that his complaint should be referred to the full Police Complaints Board contrary to the sub-committee's decision.

Investigation of Charges made by a Police Officer.

6. (a) Where a report, allegation or complaint made by a police officer is received from which it appears that an offence may have been committed by a member of the Police Force; the matter shall be referred to an investigating officer appointed by the Assistant Commissioner who shall cause it to be investigated without delay.
- (b) Where such report, allegation or complaint is lodged against a member of the Police Force, it shall be the duty of the officer receiving it to record it in writing.
- (c) *revoked.*

Investigation of Charges made by a person other than a Police Officer.

7. (a) Where a report, allegation or complaint is made by anyone other than a police officer, from which it appears that an offence may have been committed by a member of the Police Force, the complaint shall be lodged with the secretary to the Police Complaints Board at his office address as published in a notice of appointment made by the Gibraltar Police Authority under paragraph 1 of Schedule 6.
- (b) where such report, allegation or complaint is made against a member of the Police Force, it shall be the duty of the secretary receiving it, to record it in writing.

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- (c) the secretary shall pass the record of the report, allegation or complaint, referred to in subregulation (b) to the Assistant Commissioner who shall appoint an investigating officer.
- (d) The investigating officer shall inform the police officer in writing of the report, allegation or complaint made against him and invite him to record a written response to it which, if made shall be passed by the investigating officer together with the secretary's record to the sub-committee referred to in regulation 5(c).
- (e) It shall be the duty of the investigating officer to inform the police officer against whom the report, allegation or complaint has been made, that information provided in the written response shall not be used against the police officer at any civil, criminal or disciplinary hearing if the police officer restricts his answers and explanations to the issue under investigation.
- (f) On a full investigation, the police officer against whom the report, allegation or complaint has been made, shall be served with full details of the case against him and on completion of the full investigation, the investigating officer shall submit the docket to the secretary for transmission to the appropriate sub-committee of the Board.
- (g) The decision of the sub-committee shall be conveyed in writing by the secretary to the Assistant Commissioner of Police.
- (h) The Police Complaints Board shall be established in accordance with Schedule 6.

Interdiction.

- 8. (a) The Commissioner may, in his discretion, interdict the member subject to investigation from duty if that course is considered to be necessary precaution in the public interest, pending the outcome of criminal or disciplinary investigations, and where no alternative course, e.g. transfer to other duties, is appropriate.
- (b) Interdiction in these circumstances, does not imply any decision about the case, and this should be kept in mind whenever any record or report of the period of absence is necessary.
- (c) If the Commissioner considers it necessary that a member subject to investigation should be interdicted, he should do so provisionally and at the same time report the matter to the Gibraltar Police Authority for confirmation or otherwise.
- (d) The pay of a member subject to investigation in respect of any period of interdiction may be withheld wholly or in part so long as such interdiction continues.

Among the factors which will be taken into account will be the circumstances of the member and his dependants. If the member subject to investigation has been remanded in custody pending criminal proceedings, interdiction shall be without pay.

- (e) Prolonged interdiction without pay or at a reduced rate may result in financial hardship to dependants. Members under investigation, other than those who are remanded in custody awaiting trial, may appeal to the Gibraltar Police Authority through the Commissioner for their level of pay to be reviewed. In such cases they should be given the opportunity of stating their financial position, and a re-assessment will be carried out in consultation with the Human Resources Manager who should be asked to investigate the domestic and financial circumstances surrounding the case. Such applications shall be dealt with urgently and in any event not later than two weeks from the date of their submission.
- (f) On termination of the period of interdiction should disciplinary proceedings result in a penalty, any withheld pay in respect of interdiction may be forfeited wholly or in part if it is so determined by the Gibraltar Police Authority, after consideration of the gravity of the offence and all other circumstances of the case. Any basic pay which it is decided will not be forfeited must be paid to the member involved.
- (g) Should the member under investigation be cleared of all charges, it must be ensured that the member receives a net sum making up any shortfall on the basic net pay that he would have received during the period of interdiction; the shortfall sum should be assessed having regard to any social insurance or supplementary benefits which the member may have received while interdicted.
- (h) The decision to interdict a member under investigation will be communicated to him in writing by the Commissioner, and a proper record will be placed in his personal file. The decision and details of the level of pay awarded will also be communicated to the Human Resources Manager and the Principal Auditor.

Personal Explanation.

9. The investigating officer or the Police Complaints Board shall, as soon as is practicable, in writing inform the member of the report, allegation or complaint and give him a written notice—

- (a) informing him that he is not obliged to say anything concerning the matter, but that he may, if so desires, make a written or oral statement concerning the matter to the investigating officer, and
- (b) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

Criminal Offences.

10.(1) If in the course of an enquiry by an investigating officer or the Police Complaints Board, or any subsequent disciplinary enquiry, it appears that a criminal offence has been committed, the matter may be referred to the Commissioner or to the Attorney General's Chambers.

(2) The fact that the matter is referred to the appropriate authority will not in itself be a reason for suspending disciplinary action but where criminal proceedings are instituted against a police officer, disciplinary proceedings on any grounds involved in the criminal charge shall not be instituted (or, if already instituted, shall not be proceeded with) until the determination of the criminal proceedings and of any appeal arising therefrom; for this purpose, an appeal from criminal proceedings shall be deemed to have been determined, inter alia, if the time limit for bringing the appeal has expired and no appeal has been brought.

(3) Where the law enforcement authority is investigating a suspected criminal offence, disciplinary enquiry (if it continues) shall not be conducted in such a manner as to encroach or impede the investigation of the law enforcement authority.

(4) If a police officer is charged with a criminal offence; and the proceedings of the court disclose any form of irregularity which is liable to disciplinary action, formal disciplinary proceedings may be instituted independently of the outcome of the Court case, but:–

- (a) action should not be taken until the case has been determined by the Court; and
- (b) no disciplinary action should be taken in a manner that is inconsistent with the findings of the court.

(5) When disciplinary proceedings are being instituted following a criminal conviction, not all stages of the disciplinary procedure may be appropriate i.e. because the facts are not in dispute, but the police officer will always be given the opportunity to make representations against the action proposed.

Formulation of charges.

11.(1) The decision whether or not the member subject to investigation should be charged with an offence shall be taken by the Assistant Commissioner after considering the report of the investigating officer or Police Complaints Board and any statement under regulation 9.

(2) Where the Assistant Commissioner decides that a charge be preferred the Commissioner shall, as soon as possible, cause –

- (a) to be entered on a discipline form the offence in, question together with such particulars as would leave the member subject to investigation in no doubt as to the precise offence alleged, and
 - (b) the member subject to investigation to be charged by being served with a copy of the discipline form.
- (3) The discipline form shall be in the form set out in Schedule 3 hereto.

Documents to be supplied.

12. Where a member of the Police Force (hereinafter called “the accused member”) is charged with an offence, he shall, as soon as possible, be supplied with copies—

- (a) of any statement he may have made under regulation 9;
- (b) of the report, allegation or complaint on which the charge is founded and of any reports thereon (other than the report of the investigating officer or the Police Complaints Board) notwithstanding that they may be confidential;
- (c) of any statement relating to the charge made by any witness to in support of the charge together with witness’s name and address; and
- (d) of any statement relating to the charge made by any person, other than a witness to be called in support of the charge, to the investigating officer or to anybody on his behalf or to the Police Complaints Board together with the person’s name and address.

Questions in Discipline Form to be answered by the accused.

13. (1) The accused member shall be invited to state in writing on the discipline form whether he admits or denies the charge.

(2) The accused member shall be invited to state in writing on the discipline form the names and addresses of any witnesses to relevant facts whose attendance at the hearing of the case he wishes the Assistant Commissioner to take steps to secure.

(3) Any such witness who is a member of the Police Force shall be ordered to attend at the hearing of the case and the Assistant Commissioner shall cause any other such witness to be given due notice that this attendance is desired and of the time and place of the hearing.

Hearing.

14. (1) Subject to sub-section (2), a charge against a member of the Police Force shall be heard by a Disciplinary Board.

(2) The accused may before the hearing elect to be tried by the Commissioner alone,

Provided that—

the provisions of this sub-section shall not apply to any case which, if proved, may in the opinion of the Assistant Commissioner, result in the dismissal or termination of service or reduction in rank or reduction in the rate of pay of the accused member.

(3) The Disciplinary Board shall consist of—

- (a) the Commissioner, who shall be the Chairman, and two other Police Officers not below the rank of Chief Inspector, in cases where the charges to be heard arise from the report of an investigating officer appointed under Regulation 6(a); or
- (b) in relation to any charges (whether or not falling under sub-regulation (a));
 - (i) two Police Officers not below the rank of Chief Inspector; and
 - (ii) a member of the Gibraltar Police Authority who shall act as Chairman; and
- (c) where the charges arise from a report by the Police Complaints Board, the Disciplinary Board shall additionally include an independent member who shall be one of the independent members of the Police Complaints Board. If for any reason neither independent member of the Police Complaints Board is able to sit on the Disciplinary Board, the Gibraltar Police Authority shall appoint another independent member in his place.

Procedure at Hearing.

15. (1) The accused shall be ordered to attend at the hearing of the case by being given notice in writing of the time, date and place of the hearing; at the same time, he will be advised of his right to be assisted throughout by a colleague or a representative of the Police Association. In any case which, in the opinion of the Superintendent, may, if proved, result in the dismissal, termination of service, reduction in rank or reduction in rate of pay of the accused member, the accused may be assisted by a legal representative of his choice and shall be so advised. The penalties of dismissal, termination of service, reduction in rank or reduction of rate of pay, may not be imposed unless the member has been so advised. If he wishes, a copy of the written statement may be sent to his assisting colleague or other representative.

(2) The hearing shall be in private:

Provided that it shall be within the discretion of the officer conducting the hearing to allow such member or members of the Police Force as he considers desirable to attend the whole or such part of the hearing as he may think fit subject to the accused member or his representative not objecting to the attendance of the member or members in question.

(3) The case against an accused member shall be presented by a member of the Police Force or by a legal representative acting on behalf of the Police Force.

(4) If the accused member does not admit the charge, the hearing shall proceed as though he denied the charge.

(5) Before the case against an accused member is presented, the accused member may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged and the officer conducting the hearing, if he upholds that submission, shall dismiss the charge to which the submission relates.

(6) The accused member may conduct his case either in person or it may be conducted by a member of the Police Force selected by him:

Provided that if the accused member is represented by a member of the Police Force the accused member as well as his representative, may cross-examine the witnesses called in support of the case against him.

(7) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the officer conducting the hearing.

Adjournment of Hearing.

16. The officer conducting the hearing of the case may from time to time adjourn the hearing if it appears to him necessary or expedient so to do for the due hearing of the case.

Hearing in the absence of the accused.

17.(1) If the accused member does not attend the hearing of the case, the hearing may be proceeded with and concluded in his absence;

Provided that –

- (a) if the accused member is detained in pursuance of the sentence of a court in the prison and desires to make representations in person at the hearing, the hearing shall not be concluded until the accused member has been enabled to make such representations;

- (b) if good reason is given to the officer conducting the hearing by or on behalf of the accused member, as to why the accused member is unable to attend the hearing, other than that the accused is detained as aforesaid the hearing shall be postponed or adjourned as the case may be.

(2) Where, owing to the absence of the accused member, it is impossible to comply with any of the procedure described in regulations 9, 10, 11, 12 and 14(1), that procedure shall be dispensed with.

Attendance of Complainant at hearing.

18.(1) This regulation shall apply in relation to the hearing of a charge against an accused member where the charge is in respect of a complaint made by anyone other than a Police Officer.

(2) Notwithstanding anything contained in regulation 13(2) but subject to sub-regulation (4) hereof the officer conducting the hearing shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if he considers it appropriate so to do on account of the age of the complainant or otherwise, shall allow him to be accompanied by a person friend or relative who is not to be called as a witness at the hearing.

Provided that—

- (a) where a complainant is to be called as a witness at the hearing he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and
- (b) where it appears to the officer conducting the hearing that a witness may, in giving evidence disclose evidence which in the public interest ought not to be disclosed to a member of the public, he should require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(3) If, after the accused member has been cross-examined by the officer presenting the case against him, the complainant wishes further questions to be put, the officer conducting the hearing, provided he is satisfied that the questions are ones which might have been properly put by the presenting officer, shall either put the questions on the complainant's behalf or, at his discretion, allow the complainant himself to put the questions.

(4) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in nor interrupt the hearing, and if he or such a person should behave in a

disorderly or abusive manner or otherwise misconduct themselves, the officer conducting the hearing may exclude him from the remainder of the hearing.

Finding.

19(1). At the conclusion of the hearing, any punishment awarded by the Commissioner or a Disciplinary Board shall be subject to the approval of the Gibraltar Police Authority either to dismiss the charge or find it proved; in the event of there being any dissenting views expressed by any members of the Board, these shall be communicated to the Gibraltar Police Authority.

Provided that no such approval shall either be sought or given until after the expiry of the period specified in Part III hereof for the giving of Notice of Intention to Appeal.

(2) The appropriate penalty (from the possible penalties set out in Schedule 2 hereto) shall also be communicated to the Gibraltar Police Authority.

(3) The decision of the Gibraltar Police Authority shall, as soon as possible, be recorded in the Discipline Form and notified in writing to the accused member.

PART III - APPEALS.**Appeals.**

20.(1) Any police officer who is dissatisfied with the decision reached in a disciplinary hearing may, subject to the provisions of this Part, appeal against such decision.

(2) An appeal against a decision of the Commissioner alone shall be to the Gibraltar Police Authority.

(3) An appeal against a decision of a Disciplinary Board shall be to the Gibraltar Police Authority.

Procedure an Appeal.

21.(1) An appeal under regulation 20 shall be initiated by such police officer (hereinafter called "the appellant") giving Notice of his Intention to Appeal in the form set out in Schedule 4, to the Commissioner within 5 days of being notified in writing of the relevant decision.

(2) On the receipt of such a notice the Commissioner shall cause a copy of the verbatim record of the proceedings to be sent to the appellant as soon as possible.

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(3) Within 10 days of the receipt of the verbatim record of the proceedings the appellant shall give to the Commissioner Notice of Appeal in the form set out in Schedule 5, containing his grounds of appeal and his written submissions in support of those grounds of appeal.

- (a) an appeal under regulation 20(2):–
 - (i) the Commissioner shall within 10 days of the receipt of the Notice of Appeal and any written submissions in support of the grounds of appeal forward to the appellant his written submissions in response thereto;
 - (ii) within 10 days of the receipt of the Commissioner’s written submissions the appellant shall, if he so desires, make any further submissions and forward these to the Commissioner;
 - (iii) on the receipt of any such further submissions the Commissioner shall, within 10 days, cause a bundle containing the following documents to be prepared and forwarded to the Gibraltar Police Authority:–
 - (a) the Discipline Form;
 - (b) a copy of the decision of the Commissioner;
 - (c) Notice of Intention to Appeal;
 - (d) Notice of Appeal and the Appellant’s written submissions in support of the grounds of appeal;
 - (e) A copy of the verbatim record of the proceedings including any exhibits produced at the hearing;
 - (f) the Commissioner’s written submissions;
 - (g) the reply, if any, by the appellant to the Commissioner’s written submissions
- (b) an appeal under regulation 20(3):–
 - (i) the Commissioner shall, within 10 days of receipt of the Notice of Appeal and any written submissions in support of the grounds of appeal, cause a copy of such Notice and any written submissions, to be sent as soon as possible to the Chairman of the Disciplinary Board;

- (ii) within 10 days of the receipt of the copy of the Notice of Appeal and any written submissions in support of the grounds of appeal from the Commissioner, The Chairman of the Disciplinary Board shall submit to the Commissioner the Board's written submissions in response thereto;
- (iii) within 10 days of receipt of the written submissions of the Chairman of the Disciplinary Board, the Commissioner shall transmit a copy thereof to the appellant;
- (iv) the appellant shall, if he so desires, within 10 days thereafter make further submissions;
- (v) on the receipt of any such further submissions, the Commissioner shall, within 10 days, cause a bundle to be prepared and forwarded to the Gibraltar Police Authority containing the following documents:—
 - (a) the Discipline form;
 - (b) a copy of the decision of the Disciplinary Board;
 - (c) Notice of Intention to Appeal;
 - (d) Notice of Appeal and the appellant's written submissions in support of the grounds of appeal;
 - (e) a copy of the verbatim record of the proceedings including any exhibits produced at the hearing;
 - (f) the submissions of the Chairman of the Disciplinary Board;
 - (g) the reply, if any, by the appellant to the submissions of the Chairman of the Disciplinary Board.

Advice of the Public Service Commission.

22.(1) The Gibraltar Police Authority may refer an appeal under this Part to the Public Service Commission for their advice.

(2) After considering the appeal the Public Service Commission shall forward the appeal back to the Gibraltar Police Authority with its advice.

(3) The Gibraltar Police Authority shall either allow or dismiss the appeal and shall inform the appellant of its decision.

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PART IV. - REVOCATION

23: Parts. III, IV, V and VI of the Police Regulations and the Police (Discipline) Regulations 1990 are revoked.

SCHEDULE 1.**DISCIPLINE CODE.****Discreditable conduct.**

1. Discreditable conduct which offence is committed where a member of the police force 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.

Misconduct towards a member of the police force.

2. Misconduct towards a member of the police force, which offence is committed where—

- (a) the conduct of a member of the police force towards another such member is oppressive or abusive, or
- (b) a member of the police force assaults another such member.

Disobedience to orders.

3. Disobedience to orders, which offence is committed where a member of the police force, without good and sufficient cause, disobeys or omits or neglects to carry out any lawful order, written or otherwise, or any provision of any Standing Order or Routine Order, or contravenes any of the following requirements:—

- (a) a police officer shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give rise to the impression amongst members of the public that it may so interfere, and in particular a police officer shall not take any active part in politics;
- (b) the place at which a police officer resides shall be subject to the approval of the Commissioner;
- (c) a police officer shall not, without the previous consent of the Commissioner, receive a lodger in a house or quarters with which he is provided by Government or sub-let any part of the house or quarters;
- (d) a police officer shall not wilfully refuse or neglect to discharge any lawful debt.

Neglect of duty.

4. Neglect of duty, which offence is committed where a member of the police force, without good and sufficient cause—

- (a) neglects or omits to attend to or carry out with due promptitude and diligence anything which it is his duty as a member of the police force to attend to or carry out, or
- (b) fails to work his beat in accordance with orders, or leaves the place of duty to which he has been ordered, or having left his place of duty for an authorised purpose fails to return thereto without undue delay, or
- (c) is absent without leave from, or is late for, any duty, or
- (d) fails properly to account for, or to make a prompt and true return of, any money or property received by him in the course of his duty.

Falsehood or prevarication.

5. Falsehood or prevarication, which offence is committed where a member of the police force—

- (a) knowingly or through neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for police purposes, or
- (b) either wilfully and without proper authority or through lack of due care destroys or mutilates any record or document made, kept or required for police purposes, or
- (c) without good and sufficient cause alters or erases or adds to any entry in such a record or document, or
- (d) has knowingly or through neglect made any false, misleading or inaccurate statement in connection with his appointment to the police force.

Improper disclosure of information.

6. Improper disclosure of information, which offence is committed where a member of the police force—

- (a) without proper authority communicates to any person, any information which he has in his possession as a member of the police force, or

- (b) makes any anonymous communication to the Governor, the Chief Minister, the Gibraltar Police Authority, any public officer, the Commissioner or to any superior officer, or
- (c) without proper authority, makes representations to the Governor, the Chief Minister, the Gibraltar Police Authority, any public officer, the Commissioner or to any superior officer, with regard to any matter concerning the force, or
- (d) canvasses any member of the Gibraltar Parliament or any public officer with regard to any such matter.

Corrupt or improper practice.

7. Corrupt or improper practice, which offence is committed where a member of the police force—

- (a) in his capacity as a member of the force and without the consent of the Commissioner, directly or indirectly solicits or accepts any gratuity, present or subscription, or
- (b) places himself under a pecuniary obligation to any person in such a manner as might affect his properly carrying out his duties as a member of the force, or
- (c) improperly uses, or attempts so to use, his position as a member of the force for his private advantage, or
- (d) in his capacity as a member of the force and without the consent of the Commissioner, writes, signs or gives a testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind.

Abuse of authority.

8. Abuse of authority, which offence is committed where a member of the police force—

- (a) without good and sufficient cause makes an arrest, or
- (b) uses any unnecessary violence towards any prisoner or 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.

Neglect of health.

9. Neglect of health, which offence is committed where a member of the police force, without good and sufficient cause, neglects to carry out any instructions of the Government, medical officer or, while absent from duty on account of sickness, commits any act or adopts any conduct calculated to retard his return to duty.

Improper dress or untidiness.

10. Improper dress or untidiness, which offence is committed where without good and sufficient cause a member of the police force while on duty, or while off duty but wearing uniform in a public place, is improperly dressed or is untidy in his appearance.

Damage to police property.

11. Damage to police property, which offence is committed where a member of the police force—

- (a) wilfully or through lack of due care causes any waste, loss or damage to any police property, or
- (b) fails to report as soon as is reasonably practicable any loss of or damage to any such property issued to, or used by him, or entrusted to his care.

Drunkedness.

12. Drunkedness, which offence is committed where a member of the police force, while on duty—

- (a) without proper authority drinks, or receives from any other person, any intoxicating liquor, or
- (b) demands or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor.

Entering licensed premises.

14. Entering licensed premises, which offence is committed where a member of the police force—

- (a) while on duty, or
- (b) while off duty but wearing uniform

without good and sufficient cause, enters any premises in respect of which a licence or permit has been granted in pursuance of the law relating to liquor licensing or betting and gaming or regulating places of entertainment.

Criminal conduct.

15. Criminal conduct, which offence is committed where a member of the police force has been found guilty by a court of law of a criminal offence.

Being an accessory to a disciplinary offence.

16. Being an accessory to a disciplinary offence, which offence is committed where a member of the police force connives at or is knowingly an accessory to any offence against discipline.

Sleeping on duty.

17. Sleeping on duty.

Cowardice in the performance of duty.

18. Cowardice in the performance of duty.

Malingering.

19. Malingering, which offence is committed where a member feigns or exaggerates any sickness or injury with a view to avoiding duty.

SCHEDULE 2.**DISCIPLINARY PENALTIES.**

The disciplinary penalties which may be imposed are as follows:

1. Written reprimand;
2. Suspension, deferment, stoppage or forfeiture of increments (in whole or in part) already earned;
3. Monetary payments by way of fine subject to a maximum fine equivalent to the amount at level 3 on the standard scale of fines provided for in the Criminal Procedure Act; and monetary payments by way of restitutions or surcharges (in whole or in part) either for culpable loss or damage caused by the offender or for unauthorised absence from duty;
4. Suspension for a specific period with loss of pay;
5. Loss of seniority, ban on promotion, including temporary promotion or eligibility for substitution, for a specific period;
6. Downgrading which may be for a specific minimum period, after which an officer shall be eligible for consideration for promotion; downgrading includes removal from a post attracting additional pay or allowances;
7. Termination of services without loss of pension benefits;
8. Dismissal with total loss or reduction of Pension Benefits forfeiture of Pension Benefits will be used as a disciplinary measure only in cases where the Police Officer is convicted of treason or some other offence which is gravely injurious to the State or is liable to lead to serious loss of confidence in the Police Force.

SCHEDULE 3.

POLICE ACT

DISCIPLINE FORM

CHARGE AGAINST:

| | | |
|------|------|--------|
| NAME | RANK | NUMBER |
|------|------|--------|

STATEMENT OF OFFENCE.

PARTICULARS OF OFFENCE

Names and addresses in of the charge and whose statements are attached -

1. Do you admit or deny the charge

2. Do you wish:-

(a) to select a member of the police force to,assist you in presenting your case. If so, give his name, rank and number. If not, write "No".

(b) the Commissioner to take steps to secure the attendance of any witnesses to relevant facts at the hearing of the case. If so, give their names and addresses. If not, write "No".

.....

.....

.....

.....

.....

Date

Signed

SCHEDULE 4.

FORM OF NOTICE OF INTENTION TO APPEAL.

1. I, (name, rank and number)
was, on (insert date) and while
holding the rank of in the Gibraltar Police Force, found to have committed
the disciplinary offence(s) mentioned in the first column below with which I have been charged
and was punished therefor as mentioned in the second column below:-

| Disciplinary Offence found proved | Punishment therefor |
|-----------------------------------|---------------------|
| (1) | |
| (2) | |
| (3) | |

2. The hearing of the charge(s) was conducted, and the finding(s) reached, by []
[a Disciplinary Board]

3. Punishment was imposed by []
[a Disciplinary Board].

4. I was notified in writing of the decision and punishments on
..... (insert date).

5. I desire to appeal against (the said finding(s) and punishment(s)) [the said Punishment(s)
but not against the said finding(s)].

SCHEDULE 5.

FORM OF NOTICE OF APPEAL

1. Pursuant to my Notice of Intention to Appeal dated the day ,20 . I desire to appeal against the finding(s) and punishment(s) but not against the findings of [] [a Disciplinary Board] on the following grounds namely:

1....
.....

(Set out ground and written submission in support of that ground)

2 .
.....

(Set out ground and written submissions in support of that ground)

Dated this day of 20

Signature

Address

SCHEDULE 6.**POLICE COMPLAINTS BOARD.**

1. The Police Complaints Board (hereinafter referred to as “the Board”) shall consist of the Commissioner who shall be the Chairman, two other Police Officers not below the rank of Chief Inspector, and two independent members, to be appointed by the Gibraltar Police Authority, and there shall be a Secretary to the Board, to be appointed by the Gibraltar Police Authority.
2. The independent members of the Board shall be appointed by the Gibraltar Police Authority for a period of two years and shall be eligible for re-appointment.
3. If an independent member dies, resigns or otherwise ceases to be a member, the Gibraltar Police Authority may appoint another in his place.
4. In the event of the Commissioner not being able to sit on the Board by reason of relationship to the member of the Police Force under investigation, then his place shall be taken by the Assistant Commissioner, failing whom the next highest ranking officer.
5. The two Police Officers on the Board shall be selected by the Assistant Commissioner and appointed for two years at a time. They shall be eligible for reappointment. The Assistant Commissioner shall determine when it is inappropriate for one or both of the Police members to sit on the Board by reason of personal or professional relationship with the member of the Police Force under investigation, and in such cases the Assistant Commissioner may appoint an additional temporary police member if necessary in order to ensure a quorum.
6. If a police member dies, resigns from the Police Force or is otherwise unable to continue as a member, the Assistant Commissioner may appoint another in his place.
7. A person is disqualified from being considered for the appointment of independent member if he has been convicted by any Court of a criminal offence involving dishonesty, or any other offence for which a sentence of imprisonment has been imposed.
8. A quorum of the Board shall be three, which shall include the independent member and one police member.