

# Police Act 2006

## Principal Act

<b>Act. No. 2006-20</b>	<i>Commencement (LN.2007/033)</i>	22.2.2007
	<i>Assent</i>	14.7.2006

Amending enactments	Relevant current provisions	Commencement date
Act. 2008-16	s. 78(2)-(3)	30.10.2008
2010-08	ss. 4(1), (c), (6), 6(1), (b), 9(1)	15.4.2010
2018-07	ss. 2, 49-55, 79(1)(d), (2)-(3)	21.6.2018
LN. 2018-210	s. 30(1)	4.10.2018
Act. 2019-21	ss. 2, 30(1), 36(1), (2), 37(1)	25.7.2019

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AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT AND FUNCTIONS OF THE GIBRALTAR POLICE AUTHORITY AND THE ORGANISATION, DISCIPLINE, POWERS AND DUTIES OF THE ROYAL GIBRALTAR POLICE, AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

**Title and commencement.**

1. This Act may be cited as the Police Act 2006 and comes into operation on the day designated by the Government by notice in the Gazette and different days may be appointed for different purposes.

**Interpretation.**

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

“Annual Policing Plan” means the plan prepared under section 8;

“Annual Report” means the report prepared under section 10;

“Authority” means the Gibraltar Police Authority constituted under section 3(1);

“Chairman” means the person appointed pursuant to the provisions of section 4 to hold the office of Chairman of the Authority;

“Commissioner” means the Commissioner of Police;

“Assistant Commissioner” means the Assistant Commissioner of Police if there be one;

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

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

“Police Federation” means the Gibraltar Police Federation 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.

“Specified Appointments Commissions” means the Specified Appointments Commission, if any, provided for in and established pursuant to the Constitution.

**PART I**  
**THE GIBRALTAR POLICE AUTHORITY**

**Constitution of Gibraltar Police Authority.**

3.(1) There is hereby established the Gibraltar Police Authority.

(2) The Authority shall be a body corporate with perpetual succession and shall have a common seal which shall be officially and judicially noted.

(3) The common seal of the Authority may only be affixed to an instrument by decision of the Authority and in the presence of the Chairman and one member of the Authority.

**Composition of Authority.**

4.(1) The Authority shall consist of the ten members comprising—

- (a) a Chairman appointed by the Governor acting on the advice of the Specified Appointments Commission from among persons proposed by the Governor or the Chief Minister; and
- (b) one member appointed by each of the Governor and the Chief Minister; and
- (c) seven members appointed by the Governor acting on the advice of the Public Service Commission from a list of persons that shall have been approved by the Governor and the Chief Minister.

(2) Every member of the Authority shall hold office for a period of three years, and at the expiration of any such period or periods shall be eligible for reappointment.

(3) Other than the Speaker, no member of the Parliament shall be eligible for appointment to the Authority.

(4) If any member of the Authority—

- (a) has been absent from three consecutive meetings of the Authority without having been excused by the Chairman; or
- (b) has become bankrupt or made any arrangement with his creditors; or
- (c) has been convicted of an offence (other than a traffic offence); or
- (d) is incapacitated by physical or mental illness; or

- (e) is otherwise unable or unfit to discharge the functions of a member for a period of three months or more; or
- (f) has become a member of the Parliament, other than its Speaker; or
- (g) the Governor and the Chief Minister call for such person to cease to be a member of the Authority,

such person shall cease to be a member of the Authority.

(5) Notwithstanding the foregoing provisions of this section any member may resign his office by giving written notice to the Authority.

(6) When any person has ceased to be a member of the Authority another person may be appointed by the person so empowered under subsection (1) and in the manner that the person so ceasing to be a member had been appointed.

(7) Any member of the Authority who ceases to be a member by virtue of sub-section (4) or where he would have ceased to be a member in that manner but for his voluntary resignation, shall be in-eligible for re-appointment (except where he ceases to be a member by virtue of subsection 4(f) of this section and subsequently ceases to be a member of the Parliament).

#### **Responsibilities and powers of the Authority.**

5. The responsibilities and powers of the Authority are as follows–

- (a) to secure the maintenance of an efficient and effective police force for Gibraltar within the financial resources available to it and on a value for money basis;
- (b) to ensure high standards of integrity, probity and independence of policing in Gibraltar;
- (c) to provide information on police issues to the community;
- (d) to establish, operate and supervise the process for investigating complaints against police officers under this Act;
- (e) to provide a mechanism for enhanced police accountability through a process of consultation with the community;
- (f) to ensure value for money in policing;
- (g) to draw up and publish an Annual Policing Plan and an Annual report, in accordance with sections 8 and 10 respectively;



- (h) to submit to the Minister for public finance, in accordance with the form, procedures and timetables established by the Government generally in relation to the preparation of its budget, an annual budget bid for the Force;
- (i) to hold the Commissioner to account for matters which are the responsibility of the Authority.

### **Meetings and proceedings of the Authority.**

6.(1) The quorum at meetings of the Authority shall be six members comprising—

- (a) the Chairman, or another member presiding with the authority of the Chairman or in the absence of the Chairman or his failure or inability to authorise another member to preside another member elected by the members present from among their number to preside over the meeting; and
- (b) five other members.

(2) Meetings of the Authority shall be held at least once in any period of 3 months and additional meetings shall be convened by the Secretary at the request of the Chairman or any three members.

(3) Any matters arising at a meeting of the Authority shall be decided by a majority of the members present and voting thereon at the meeting and in the case of an equality of votes, the Chairman (but not any member presiding in the absence of the Chairman) shall have a second or casting vote.

(4) Minutes of every meeting shall be kept and once signed by the Chairman of the meeting at which they were approved, shall be rebuttable evidence of the proceedings of the meeting to which they relate.

(5) Subject as aforesaid, the Authority shall have power to regulate its own proceedings.

(6) The Chief Secretary of the Government shall designate a public officer to be the Secretary of the Authority and shall provide the Authority with such further administrative support as the Chief Secretary shall consider reasonable.

### **Liability of members.**

7. No personal liability shall attach to any member of the Authority in respect of anything done or omitted to be done, in good faith, under the provisions of this Act.

### **Annual Policing Plan.**

8.(1) The Authority shall, in respect of each financial year, after consulting—

- (a) the Governor;
- (b) the Chief Minister; and
- (c) the Commissioner of Police,

prepare a plan for policing in Gibraltar, to be known as the Annual Policing Plan, for that year.

(2) The Annual Policing Plan shall set targets to support level objectives and priorities of policing for that year.

(3) The Annual Policing Plan must have due regard to, and as far as is practicable and proper accommodate—

- (a) the priorities of the Governor in those aspects of policing for which he is responsible; and
- (b) the priorities of the Government in relation to policing as indicated to the Authority by the Chief Minister.

(4) The Annual Policing Plan shall not be drawn up until such time as the Authority is informed by the Minister for Public Finance of the financial and human resources that it will receive for the period to which the Annual Policing Plan relates to and will be based on and reflect that quantity of resources.

(5) In this section, “financial year” means the financial year of the Government.

**Annual Policing Plan to be laid before Parliament and then published.**

9.(1) The Chairman shall send the Annual Policing Plan drawn up in accordance with section 8 to the Governor, the Chief Minister and the Commissioner within 7 days of its approval by the Authority whereupon it shall come into effect.

(2) The Chief Minister shall lay the Annual Policing Plan in the Parliament at the next sitting of the Parliament following the receipt of it by him.

(3) The Authority shall cause the Annual Policing plan to be published, not earlier than 48 hours after the Annual Policing Plan has been laid in the Parliament.

**Annual Report.**

10.(1) The Authority shall within three months after the end of each financial year produce a report, to be known as the Annual Report, setting out the extent to which the Annual Policing Plan for that year so ended has been fulfilled.

(2) The Chairman shall send the Annual Report to the Governor, the Chief Minister and the Commissioner within 7 days of its approval by the Authority.

(3) The Chief Minister shall lay the Annual Report in the Parliament at the next sitting of the Parliament following receipt by him of the Annual Report.

(4) The Authority shall cause the Annual Report to be published not earlier than 48 hours after it has been laid in the Parliament.

## PART II

### THE GOVERNOR'S AND GOVERNMENT'S RESPONSIBILITIES FOR POLICING

#### **Governor's Responsibilities.**

11. The Governor shall have overall, ultimate responsibility for—

- (a) the integrity, probity and independence of policing in Gibraltar; and
- (b) the policing aspects of national security including internal security.

#### **Governor's powers.**

12. The Governor shall have power to—

- (a) hold the Authority to account for any matter to which section 11 relates;
- (b) hold the Authority to account for the professional standards of the Force;
- (c) call for and hold meetings with the Chairman, the Commissioner and other senior officers of the Force to discuss matters under his responsibility or in respect of which he has powers under this Act.

#### **Governor's powers in default by Authority.**

13.(1) The following powers are exercisable by the Governor where the Authority has failed to discharge or perform a responsibility imposed on the Authority under this Act—

- (a) to require the Authority to provide a report on any policing matter;
- (b) to direct the Authority to submit the Force to an inspection by an appropriate inspectorate;
- (c) to direct that an inquiry into policing in Gibraltar be made;

- (d) where an inspection or inquiry under this section identifies any shortcomings, to direct that, within the financial resources available to it, the Force take appropriate remedial action;
- (e) where in the opinion of the Governor the integrity, probity or independence of the police has been compromised or is at risk, to direct the Force to take appropriate action to remedy the situation or avoid the risk;
- (f) to suspend from duty, or call for the resignation of the Commissioner.

(2) The Governor will keep the Chief Minister informed of any exercise by him of a power under this section and shall provide to the Chief Minister a copy of any report produced as a consequence thereof.

#### **Government's Responsibilities.**

14. The Minister with responsibility for public finance shall decide, and seek the appropriation of the Parliament for the grant of both recurrent and capital expenditure to be made for the Force and policing in Gibraltar in respect of any financial year.

#### **Powers of the Government.**

15.(1) The Chief Minister may exercise the following powers on behalf of the Government—

- (a) to require factual or assessment reports from the Force or the Authority on any policing matter:

Provided that there may be withheld from any such report any fact disclosure of which is likely to prejudice the effective operation of the Force or the confidentiality of any information which the Force is bound to maintain;

- (b) to hold the Force and the Authority to account for the cost effectiveness and efficiency of the Force within its allocated budget;
- (c) to hold the Force and the Authority to account for those parts of the Annual Policing Plan which do not relate to National Security;
- (d) to call for and hold meetings with the Chairman, the Commissioner and other senior officers of the Force to discuss matters under the Government's responsibility or in respect of which it has powers under this Act.

(2) The Chief Minister will keep the Governor informed of any exercise by him of a power under this section and shall provide to the Governor a copy of any report produced as a consequence thereof.

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**PART III  
POLICE COMPLAINTS**

**General functions of the Authority.**

16.(1) The Authority shall—

- (a) secure the maintenance by the Authority itself, and by the Force, of suitable arrangements with respect to the matters mentioned in subsection (2);
- (b) keep under review all arrangements maintained with respect to those matters;
- (c) secure that arrangements maintained with respect to those matters comply with the requirements of the following provisions of this Part, are efficient and effective and contain and manifest an appropriate degree of independence;
- (d) secure that public confidence is established and maintained in the existence of suitable arrangements with respect to those matters and with the operation of the arrangements that are in fact maintained with respect to those matters;
- (e) make such recommendations, and give such advice, for the modification of the arrangements maintained with respect to those matters, and also of police practice in relation to other matters, as appear, from the carrying out by the Authority of its other functions, to be necessary or desirable.

(2) Those matters are—

- (a) the handling of complaints made about the conduct of persons serving with the Force;
- (b) the recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;
- (c) the manner in which any such complaints or any such matters as are mentioned in paragraph (b) are investigated or otherwise handled and dealt with.

(3) It shall be the duty of the Authority—

- (a) to exercise the powers and perform the duties conferred on it by the following provisions of this Part in the manner that it considers best calculated for the purpose of securing the proper carrying out of its obligations under subsection (1); and

- (b) to secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by persons in relation to whose conduct the Authority has obligations.

(4) Subject to the other provisions of this Part, the Authority may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.

(5) Nothing in this Part shall confer any function on the Authority in relation to so much of any complaint or conduct matter as relates to the direction and control of a police force by–

- (a) the Commissioner; or
- (b) a person for the time being carrying out the functions of the Commissioner.

### **Application of Part III**

#### **Complaints, matters and persons to which Part III applies.**

17.(1) In this Part references to a complaint are references (subject to the following provisions of this section) to any complaint about the conduct of a person serving with the Force which is made (whether in writing or otherwise) by–

- (a) a member of the public who claims to be the person in relation to whom the conduct took place;
- (b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;
- (c) a member of the public who claims to have witnessed the conduct;
- (d) a person acting on behalf of a person falling within any of paragraphs (a) to (c).

(2) In this Part “conduct matter” means (subject to the following provisions of this section and any regulations made under this Act) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have–

- (a) committed a criminal offence; or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings.

(3) The complaints that are complaints for the purposes of this Part by virtue of subsection (1)(b) do not, except in a case falling within subsection (4), include any made by or on behalf

of a person who claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.

(4) A case falls within this subsection if–

- (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that he was able to see or hear the conduct or its effects; or
- (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.

(5) For the purposes of this section a person shall be taken to have witnessed conduct if, and only if–

- (a) he acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or
- (b) he has in his possession or under his control anything which would in any such proceedings constitute admissible evidence of that conduct.

(6) For the purposes of this Part a person falling within subsection 1(a) to (c) shall not be taken to have authorised another person to act on his behalf unless–

- (a) that other person is for the time being designated for the purposes of this Part by the Authority as a person through whom complaints may be made, or he is of a description of persons so designated; or
- (b) the other person has been given, and is able to produce, the written consent to his so acting of the person on whose behalf he acts.

(7) For the purposes of this Part, a person is serving with the Force if–

- (a) he is a member of the Force;
- (b) he is an employee of the Force who is under the direction and control of the Commissioner; or
- (c) he is a special constable or police cadet who is under the direction and control of the Commissioner.

### **Co-operation, assistance and information**

**General duties of Commissioner.**

18.(1) It shall be the duty of the Commissioner to ensure that he is kept informed, in relation to the Force about all matters falling within subsection (2).

(2) Those matters are—

- (a) matters with respect to which any provision of this Part has effect;
- (b) anything which is done under or for the purposes of any such provision; and
- (c) any obligations to act or refrain from acting that have arisen by or under this Part but have not yet been complied with, or have been contravened.

(3) It shall be the duty of the Commissioner to provide the Authority and every member of the Authority's staff with all such assistance as the Authority or that member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the Authority under this Part.

(4) It shall be the duty of the Commissioner to ensure that a person appointed under this Part to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require.

**Provision of information to the Authority.**

19.(1) It shall be the duty of the Commissioner at such times, in such circumstances and in accordance with such other requirements as may be set out in regulations made by the Government, to provide the Authority with all such information and documents as may be specified or described in regulations so made.

(2) It shall also be the duty of the Commissioner—

- (a) to provide the Authority with all such other information and documents specified or described in a notification given by the Authority to the Commissioner; and
- (b) to produce or deliver up to the Authority all such evidence and other things so specified or described,

as appear to the Authority to be required by it for the purposes of the carrying out of any of its functions.

(3) Anything falling to be provided, produced or delivered up by any person in pursuance of a requirement imposed under subsection (2) must be provided, produced or delivered up in such form, in such manner and within such period as may be specified in—



- (a) the notification imposing the requirement; or
- (b) in any subsequent notification given by the Authority to that person for the purposes of this subsection.

(4) Nothing in this section shall require the Commissioner—

- (a) to provide the Authority with any information or document, or to produce or deliver up any other thing, before the earliest time at which it is practicable for the Commissioner to do so; or
- (b) to provide, produce or deliver up anything at all in a case in which it never becomes practicable for the Commissioner to do so.

(5) A requirement imposed by any regulations or notification under this section may authorise or require information or documents to which it relates to be provided to the Authority electronically.

#### **Inspections of police premises on behalf of the Authority.**

20.(1) Where—

- (a) the Authority requires the Commissioner to allow a person nominated for the purpose by the Authority to have access to any premises occupied for the purposes of the Force and to documents and other things on those premises; and
- (b) the requirement is imposed for any of the purposes mentioned in subsection (2),

it shall be the duty of the Commissioner to secure that the required access is allowed to the nominated person.

(2) Those purposes are—

- (a) the purposes of any examination by the Authority of the efficiency and effectiveness of the arrangements made by the Force for handling complaints or dealing with recordable conduct matters;
- (b) the purposes of any investigation by the Authority under this Part or of any investigation carried out under its supervision or management.

(3) A requirement imposed under this section for the purposes mentioned in subsection (2)(a) must be notified to the Commissioner at least 48 hours before the time at which access is required.

(4) Where—

- (a) a requirement imposed under this section for the purposes mentioned in subsection (2)(a) requires access to any premises, document or thing to be allowed to any person, but
- (b) there are reasonable grounds for not allowing that person to have the required access at the time at which he seeks to have it,

the obligation to secure that the required access is allowed shall have effect as an obligation to secure that the access is allowed to that person at the earliest practicable time after there cease to be any such grounds as that person may specify.

(5) The provisions of this section are in addition to, and without prejudice to—

- (a) the rights of entry, search and seizure that are or may be conferred on—
  - (i) a person designated for the purposes of any Regulations, or
  - (ii) any person who otherwise acts on behalf of the Authority,  
in his capacity as a constable or as a person with the powers and privileges of a constable; or
- (b) the obligations of the Commissioner under sections 18 and 19.

#### **Duty to keep the complainant informed.**

21.(1) In any case in which there is an investigation of a complaint in accordance with the provisions of this Act—

- (a) by the Authority; or
- (b) under its management,

it shall be the duty of the Authority to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).

(2) The matters of which the complainant must be kept properly informed are—

- (a) the progress of the investigation;
- (b) any provisional findings of the person carrying out the investigation;
- (c) whether any report has been submitted under the applicable procedures;

- (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
- (e) the outcome of any such action.

(3) The duties imposed by this section on the Authority in relation to any complaint shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made hereunder.

(4) Regulations made under this Act shall not provide for any exceptions from the duties imposed by this section except so far as it is necessary to do so for the purpose of—

- (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
- (b) preventing the disclosure of information in any circumstances in which it has been determined in accordance with the regulations that its non-disclosure—
  - (i) is in the interests of national security;
  - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;
  - (iii) is required on proportionality grounds; or
  - (iv) is otherwise necessary in the public interest.

(5) The non-disclosure of information is required on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.

(6) It shall be the duty of a person appointed to carry out an investigation under this Part to provide the Authority with all such information as the Authority may reasonably require for the purpose of performing its duty under this section.

#### **Duty to provide information for other persons.**

22.(1) A person has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if—

- (a) it appears to the Authority that he is a person falling within subsection (2); and
- (b) that person has indicated that he consents to the provision of information to him in accordance with this section and that consent has not been withdrawn.

(2) A person falls within this subsection if–

- (a) he is a relative of a person whose death is the alleged result from the conduct complained of or to which the recordable conduct matter relates;
- (b) he is a relative of a person whose serious injury is the alleged result from that conduct and that person is incapable of making a complaint;
- (c) he himself has suffered serious injury as the alleged result of that conduct.

(3) A person who does not fall within subsection (2) has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if–

- (a) the Authority considers that he has an interest in the handling of the complaint or recordable conduct matter which is sufficient to make it appropriate for information to be provided to him in accordance with this section; and
- (b) he has indicated that he consents to the provision of information to him in accordance with this section.

(4) In relation to a complaint, this section confers no rights on the complainant.

(5) A person who has an interest in being kept properly informed about the handling of a complaint or conduct matter is referred to in this section as an “interested person”.

(6) In any case in which there is an investigation of the complaint or recordable conduct matter in accordance with the provisions of this Act–

- (a) by the Authority, or
- (b) under its management,

it shall be the duty of the Authority to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (7).

(7) The matters of which the interested person must be kept properly informed are–

- (a) the progress of the investigation;
- (b) any provisional findings of the person carrying out the investigation;
- (c) whether any report has been submitted under applicable procedures;

(d) the action (if any) that is taken in respect of the matters dealt with in any such report; and

(e) the outcome of any such action.

(8) The duties imposed by this section on the Authority in relation to any complaint or recordable conduct matter shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made under this Act.

(9) Subsections (4) to (6) of section 21 apply for the purposes of this section as they apply for the purposes of that section.

(10) In this section “relative” means a person of a description prescribed in regulations made under this Act.

### **Guidance and regulations**

#### **Power of the Authority to issue guidance.**

23.(1) The Authority may issue guidance—

(a) to the Commissioner;

(b) to members of the Force other than the Commissioner,

concerning the exercise or performance, by the Commissioner of any of the powers or duties specified in subsection (2).

(2) Those powers and duties are—

(a) those that are conferred or imposed by or under this Part; and

(b) those that are otherwise conferred or imposed but relate to—

(i) the handling of complaints;

(ii) the means by which recordable conduct matters are dealt with; or

(iii) the detection or deterrence of misconduct by persons serving with the Force.

(3) Before issuing any guidance under this section, the Authority shall consult with—

(a) the Governor;

- (b) the Chief Minister;
- (c) such other persons as it thinks fit.

(4) The approval of the Government and the Governor shall be required for the issue by the Authority of any guidance under this section.

(5) Without prejudice to the generality of the preceding provisions of this section, the guidance that may be issued under this section includes–

- (a) guidance about the handling of complaints which have not yet been recorded and about dealing with recordable conduct matters that have not been recorded;
- (b) guidance about the procedure to be followed by the Commissioner when recording a complaint or any recordable conduct matter;
- (c) guidance about–
  - (i) how to decide whether a complaint is suitable for being subjected to local resolution; and
  - (ii) about the information to be provided to a person before his consent to such resolution is given;
- (d) guidance about how to protect the scene of an incident or alleged incident which–
  - (i) is or may become the subject-matter of a complaint; or
  - (ii) is or may involve a recordable conduct matter;
- (e) guidance about the circumstances in which it is appropriate (where it is lawful to do so)–
  - (i) to disclose to any person, or to publish, any information about an investigation of a complaint or conduct matter; or
  - (ii) to provide any person with, or to publish, any report or other document relating to such an investigation;
- (f) guidance about the matters relating to any procedure applicable to the handling of a complaint.

(6) Nothing in this section shall authorise the issuing of any guidance about a particular case.

(7) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in exercising or performing the powers and duties to which the guidance relates.

(8) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

### **Regulations.**

24.(1) The Government may make regulations as to the procedure to be followed under any provision of this Part.

(2) Without prejudice to the generality of the power conferred by subsection (1) or of any other power to make regulations conferred by any provision of this Part, regulations under this section may provide—

- (a) for the Authority, in the case of a complaint against any person, to be required, in accordance with procedures provided for in the regulations—
  - (i) to supply the person complained against with a copy of the complaint; and
  - (ii) to supply the complainant with a copy of the record made of that complaint;
- (b) for matters to be taken into account in making any determination as to which procedure to adopt for handling complaints and dealing with recordable conduct matters;
- (c) for any procedure for the purposes of this Part to be discontinued where—
  - (i) a complaint is withdrawn;
  - (ii) the complainant indicates that he does not wish any further steps to be taken; or
  - (iii) the whole or part of the investigation of the complaint has been postponed until the conclusion of criminal proceedings and the complainant fails to indicate after the conclusion of those proceedings that he wishes the investigation to be resumed,

and for the manner in which any such withdrawal or indication is to be effected or given, and for the circumstances in which it is to be taken as effected or given;

- (d) for requiring the subject-matter of a complaint that has been withdrawn to be treated for the purposes of this Part, in the cases and to the extent specified in the regulations, as a recordable conduct matter;
- (e) for the manner in which any procedure for the purposes of this Part is to be discontinued in a case where it is discontinued in accordance with the regulations, and for the consequences of any such discontinuance;
- (f) for the circumstances in which any investigation or other procedure under this Part may be or must be suspended to allow any other investigation or proceedings to continue, and for the consequences of such a suspension;
- (g) for the regulation of the appointment of persons to carry out investigations under this Part or to assist with the carrying out of such investigations, for limiting the persons who may be appointed and for the regulation of the carrying out of any such investigation;
- (h) for combining into a single investigation—
  - (i) the investigations of different complaints (whether relating to the same or different conduct);
  - (ii) the investigations of different conduct matters; and
  - (iii) the investigation or investigations of any one or more complaints and the investigation or investigations of any one or more conduct matters,and for splitting a single investigation into two or more separate investigations;
- (i) for the procedure to be followed in cases in which the Authority relinquishes the supervision or management of any investigation and for the consequences of its doing so;
- (j) for the manner in which any reference of a complaint or conduct matter to the Authority is to be made;
- (k) for applying the provisions of this Part with such modifications as the Government thinks fit in cases where a complaint or recordable conduct matter relates to the conduct of a person who has ceased to be a person serving with the police since the time of the conduct;
- (l) for applying the provisions of this Part with such modifications as the Government thinks fit in cases where a complaint or conduct matter relates to the conduct of a person—



- (i) whose identity is unascertained at the time at which a complaint is made or a conduct matter is recorded;
  - (ii) whose identity is not ascertained during, or subsequent to, the investigation of a complaint or recordable conduct matter;
- (m) for the records to be kept by the Authority–
- (i) with respect to complaints and purported complaints;
  - (ii) with respect to recordable conduct matters; and
  - (iii) with respect to the exercise and performance of their powers and duties under this Part;
- (n) for the Authority to be required to establish and maintain a register of such information provided to it in accordance with this Part as may be of a description specified in the regulations and for regulating the extent to which information stored on that register may be published or otherwise disclosed to any person by the Authority;
- (o) for the Commissioner to have power to delegate the exercise or performance of powers and duties conferred or imposed on him by or under this Part;
- (p) for the manner in which any notification for the purposes of any provision of this Part is to be given and the time at which, or period within which, any such notification must be given;
- (q) for the handling of complaints and conduct matters;
- (r) for the granting and use of investigating powers by or on behalf of the Authority;
- (s) for any other matter in respect of which Regulations may be made under this Act.

### **Consultation on regulations.**

25. Before making any regulations under this Part, the Government shall consult with the Authority and the Commissioner.

### **Conduct of persons in other forms of police service**

#### **Gibraltar Services Police.**

26.(1) Notwithstanding any provision made by or under any enactment passed or made before this Act–

- (a) the Authority; and
- (b) the Ministry of Defence,

shall each have power to enter into an agreement with the other for the establishment and maintenance in relation to that body of constables of procedures corresponding or similar to any of those provided for by or under this Part.

(2) If it appears to the Governor appropriate to do so in relation to the Gibraltar Services Police to establish any such corresponding or similar procedures, he may by order provide for the establishment and maintenance of such procedures in relation to the Gibraltar Services Police.

(3) An agreement under this section shall not be made, varied or terminated except with the approval of the Governor.

(4) An agreement or order under this section in relation to the Gibraltar Services Police may contain provision for enabling the Authority to bring and conduct, or otherwise participate or intervene in, any proceedings which are identified by the agreement or order as disciplinary proceedings in relation to members of the Gibraltar Services Police.

(5) An agreement or order under this section in relation to the Gibraltar Services Police may provide for the application of procedures in relation to persons who are not themselves constables but are employed for the purposes of the Gibraltar Services Police and in relation to the conduct of such persons, as well as in relation to members of the Gibraltar Services Police and their conduct.

(6) Before making an order under this section the Governor shall consult with

- (a) the Chief Minister;
- (b) the Authority; and
- (c) the Ministry of Defence.

### **Interpretation of Part III**

#### **Interpretation of Part III.**

27.(1) In this Part—

“complainant” shall be construed in accordance with subsection (2);

“complaint” shall be construed in accordance with section 17;

“conduct” includes acts, omissions and statements (whether actual, alleged or inferred);

“conduct matter” has the meaning given by section 17;

“disciplinary proceedings” means—

- (a) in relation to a member of the Force or a special constable, proceedings under any regulations made by virtue of this Act and identified as disciplinary proceedings by those regulations; and
- (b) in relation to a person serving with the Force who is not a member of the Force or a special constable, proceedings identified as such by regulations made by the Government for the purposes of this Part;

“document means anything in which information of any description is recorded;

“information” includes estimates and projections, and statistical analyses;

“local resolution”, in relation to a complaint, means the handling of that complaint in accordance with a procedure which—

- (a) does not involve a formal investigation; and
- (b) is laid down by regulations for complaints which it has been decided, in accordance with such regulations, to subject to local resolution by the Force;

“person complained against”, in relation to a complaint, means the person whose conduct is the subject-matter of the complaint;

“recordable conduct matter” means (subject to any regulations) a conduct matter that is required to be recorded by the Authority under regulations or has been so recorded;

“senior officer” means a member of the Force holding a rank above that of chief inspector;

“serious injury” means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function;

“serving with the police”, in relation to any person, shall be construed in accordance with section 17(7).

(2) References in this Part, in relation to anything which is or purports to be a complaint, to the complainant are references—

- (a) except in the case of anything which is or purports to be a complaint falling within section 17(1)(d), to the person by whom the complaint or purported complaint was made; and
- (b) in that case, to the person on whose behalf the complaint or purported complaint was made;

but where any person is acting on another's behalf for the purposes of any complaint or purported complaint, anything that is to be or may be done under this Part by or in relation to the complainant may be done, instead, by or in relation to the person acting on the complainant's behalf.

(3) Subject to subsection (4), references in this Part, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public include references to any member of the Force.

(4) In this Part references, in relation to any conduct or to anything purporting to be a complaint about any conduct, to a member of the public do not include references to—

- (a) a person who, at the time when the conduct is supposed to have taken place, was under the direction and control of the Commissioner as the person whose conduct it was; or
- (b) a person who—
  - (i) at the time when the conduct is supposed to have taken place, in relation to him, or
  - (ii) at the time when he is supposed to have been adversely affected by it, or to have witnessed it,

was on duty in his capacity as a member of the Force.

(5) For the purposes of this Part a person is adversely affected if he suffers any form of loss or damage, distress or inconvenience, if he is put in danger or if he is otherwise unduly put at risk of being adversely affected.

#### **PART IV CONSTITUTION AND EMPLOYMENT OF THE FORCE**

##### **Establishment of the Force.**

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

**Objects of the Force.**

29. 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.**

30.(1) The Force shall consist of such numbers of the following ranks as the Authority, with the approval of the Government, may decide—

Commissioner.  
Assistant Commissioner.  
Superintendents.  
Chief Inspectors.  
Inspectors.  
Sergeants.  
Constables.  
Probationary Constables.

(2) Police officers holding the same rank shall, unless the Commissioner with the approval of the Authority 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 Authority may, with the approval of the Government 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 Authority 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.**

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

(2) The Commissioner may, with the approval of the Governor, the Government and the Authority, 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.

#### **Appointment of Commissioner of Police.**

32.(1) The Governor, acting on the advice of the Authority, and subject to any provision of the Constitution, shall appoint the Commissioner.

(2) The Commissioner shall be appointed for such term as the Authority may advise and shall be set out in the instrument of appointment.

#### **Powers and duties of the Commissioner.**

33.(1) The Commissioner shall, subject to the provisions of this Act, have command, superintendence, direction and control 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.

(2) In discharging his functions, the Commissioner shall have regard to the Annual Policing Plan.

#### **Removal of Commissioner.**

34.(1) The Authority acting after consultation with the Governor and the Chief Minister and with the agreement of either of them, may call upon the Commissioner to retire, in the interests of efficiency, effectiveness, probity, integrity, or independence of policing in Gibraltar.

(2) Before seeking the approval of the Governor and the Chief Minister under subsection (1), the Authority shall give the Commissioner an opportunity to make representations and shall consider any representations that he makes.

(3) Where the Commissioner is called upon to retire under subsection (1), he shall retire on such date as the Authority may specify or on such earlier date as may be agreed upon between him and the Authority.

#### **Appointment of police officers.**

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

#### **Assistant Commissioner.**

36.(1) There may be an Assistant Commissioner appointed by the Governor acting on the advice of the Authority.

(2) The Assistant 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 Assistant Commissioner.

#### **Acting Commissioner.**

37.(1) In the absence of the Commissioner and the Assistant Commissioner, (if there be one), the Authority may, with the consent of the Governor and the Chief Minister, appoint any officer of the rank of Superintendent to act as Commissioner for such period as may be specified in his instrument of appointment.

(2) Any act or thing which may be done, ordered or performed by the Commissioner may be done, ordered or performed by the acting Commissioner.

#### **Pay and allowances.**

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

#### **Oaths and declaration.**

39.(1) Every member of the Force shall, on his appointment as such, take such oaths as may be prescribed by the Oaths Act or any other law.

(2) Every member of the Force, other than the Commissioner, on his appointment as such shall make and sign before the Commissioner and in the presence of a witness the declaration following, that is to say–

I do solemnly and sincerely declare that I do willingly enlist to serve in the Royal Gibraltar Police and that, while so serving, I will comply with and hold myself amenable to the laws and regulations now established, or which may hereafter be established, for the government of the Force, and will comply with all regulations now in force or which may hereafter be made for the organization and discipline of the Force; and I further declare that I will not withdraw myself from the Force except in accordance with the said laws and regulations framed under them.

C. D.

Signature of person enlisting.

E. F.

Signature of witness.

Declared before me on this    day of                      , at Gibraltar.

A. B.

Commissioner of Police.

## PART V DUTIES, PRIVILEGES AND IMMUNITIES

### **Status of members of the Force.**

40. Every person for the time being serving in the Force shall be deemed to be a member of the Force, and shall have and enjoy all the rights, powers, authorities, privileges and immunities conferred upon a member of the Force by any law.

### **Rights and liabilities of members of the Force.**

41. Every member of the Force shall have such rights, powers, authorities, privileges and immunities, and shall be liable to such duties and responsibilities as are conferred or imposed upon police officers or constables by any law.

### **Non-liability for act done under warrant.**



42.(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.**

43. 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.**

44. 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;

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\* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

- (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.**

45.(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 this Act or any other Act.

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

46. 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.**

47. 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 Government and the Authority.

**Police officers may be armed.**

48. 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 VI**  
**MEMBERSHIP OF FEDERATION, ETC.**

**Formation of Police Federation.**

49. There shall be established a body to be known as the Gibraltar Police Federation (the "Police Federation").

**Membership of Police Federation.**

50. All police officers below the rank of superintendent may subscribe to be members of the Police Federation.

**Objects of Police Federation.**

51.(1) The objects of the Police Federation shall be to represent members of the Force in all matters affecting their welfare and efficiency except for—

- (a) questions of promotion affecting individuals; and
- (b) (subject to subsection (2)) questions of discipline.

(2) The Police Federation may represent a member of the Force at any stage of disciplinary proceedings brought under regulations made in accordance with section 79.

**Police Federation to be independent.**

52.(1) Subject to subsection (2), the Police Federation shall be entirely independent of and unassociated with any body or person outside the Force.

(2) The Government may, on the recommendation of the Authority—

- (a) authorise the Police Federation or a branch of the Federation to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions, as it may specify; and
- (b) vary or withdraw an authorisation previously given.

**Definition of prohibited association.**

53. 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 Authority, declare to be a prohibited association;

- (c) any other association, society, club or body of persons which the Government shall, with the approval of the Authority, declare to be a prohibited association.

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

54.(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 prohibited association, and every officer of the prohibited association who is knowingly a party to such contravention is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

**Prohibition against membership of trade unions.**

55.(1) Except as regards membership of the Police Federation, 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 or any other person or persons 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 Authority whose decision shall be final.

**PART VII  
GENERAL ADMINISTRATION**

**Standing orders.**

56.(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 Authority; 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.**

57. 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 Authority 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.**

58. 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 at level 2 on the standard scale.

### **Proving withdrawal with permission.**

59. It shall be sufficient in any charge or complaint for an offence against section 58 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.**

60. 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.**

61. 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 at level 1 on the standard scale.

**PART VIII  
DISCIPLINE**

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

62.(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 65, in accordance with 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.**

63. 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.**

64. 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 General Orders.**

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

**PART IX  
SPECIAL CONSTABLES**

**Enlistment of special constables.**

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

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

67. 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.**

68. When the Government 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 at level 1 on the standard scale, 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.**

69. The Commissioner may, with the approval of the Government and the Authority, 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 X POLICE RESERVE**

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

70.(1) The Commissioner may establish a Police Reserve with the agreement of the Government and the Authority, to be known as the Gibraltar Police Reserve.

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

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

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

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

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

### **Regulations for Police Reserve.**



73. The Commissioner may, with the approval of the Government and the Authority, 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 XI CIVILIAN EMPLOYEES**

##### **Commissioner may employ civilians.**

74.(1) The Commissioner may, with the approval of the Government, 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 approval mentioned in subsection (1) may be given with respect to a particular individual or contract or a class of such individual or contract.

##### **Regulations for civilian employees.**

75. The Commissioner may, with the approval of the Government, make regulations with respect to civilians employed in pursuance of section 74 and the provisions of section 69 shall apply to such regulations as they apply to regulations mentioned in that section.

#### **PART XII DISPOSAL OF PROPERTY**

##### **Power to make orders with respect to property in possession of Police.**

76. Where any property has come into the possession of the Police in connection with any criminal charge or under any statutory provision or rule of law, 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.**

77.(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 Consolidated Fund after deduction of any expenses incurred.

### **PART XIII**

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**GIBRALTAR SERVICES POLICE****Gibraltar Services Police.**

78.(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 and in relation to such areas of Gibraltar as are in the possession and under the control of the Ministry of Defence.

(3) For the purposes of subsection (1) civilian police officers in the employment of the Ministry of Defence shall be, and be deemed to be, on duty—

- (i) when carrying out their lawful duties in relation to such areas of Gibraltar as are in the possession and under the control of the Ministry of Defence;
- (ii) when acting in support of the Force at the request of the Commissioner; or
- (iii) in such other circumstances as may be prescribed by the Government in Regulations.

**PART XIV  
MISCELLANEOUS****Regulations.**

79.(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) *Deleted.*
- (e) the appointment of police officers and the promotion and reduction in rank of police officers;
- (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) Regulations made under subsection (1) shall not have effect until approved by the Government and published in the Gazette.

(3) The Government may, in consultation with the Governor, make regulations for the constitution, procedure and functions of the Police Federation and generally for the better functioning of the Police Federation.

### **Repeal and transitional provisions**

#### **Repeal.**

80.(1) The Police Act is repealed.

(2) The repeal of the Police Act shall not affect any proceedings instituted prior to the commencement of this Act and those proceedings shall continue as though this Act had not come into operation.

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

81. 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.

#### **Savings.**

82. All subordinate legislation made under an enactment repealed by this Act and in force immediately before the coming into force of this Act, so far as it is not inconsistent with the provisions of this Act, continues in force as if made under this Act.

#### **Other provisions.**

83. During any period that there is not in existence a Specified Appointments Commission, the powers and functions bestowed thereon by this Act shall be exercised by the Governor and the Chief Minister jointly.