CHAPTER 164

POLICE ACT

AN ACT to regulate the organization, discipline and duties of the Police Force, and to provide for matters ancillary or consequential thereto.

12th May, 2017*

ACT XVIII of 2017 as amended by XIII of 2018, XXXII of 2018 and XIX and XXI, XXIV of 2020, LVI of 2021 and LVII of 2021 and XXXV of 2023 and Act III and V of 2024 and Legal Notices 292 of 2020 , 312 of 2023 and 10 , 124 , 271and 281 of 2024 , 14 of 2025 and 247 of 2026.

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**See Legal Notice 141 of 2017.*

PART I

General Provisions

Short title.

1. The short title of this Act is the Police Act.

Interpretation.
Amended by: LVII.2021.3.

2. (1) In this Act, unless the context otherwise requires:

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"appropriate consent" shall have the same meaning assigned to it by article 350 of the Criminal Code;

"Commissioner of Police" shall have the same meaning assigned to it by article 6(1);

"the European Union" means the European Union as referred to in the Treaty;

"the Force" means the Malta Police Force;

"gazetted officer" means any police officer of or above the rank of Inspector;

"Internal Audit and Investigations Unit" shall have the same meaning assigned to it by article 37(1);

"member of the Force" means any police officer other than the Commissioner;

"Minister" means the Minister responsible for the Police;

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"non-intimate sample" shall have the same meaning assigned to it by article 350 of the Criminal Code;

"Police" means the Malta Police Force;

"Police Governance Board" means the Governance Board established by virtue of article 5;

"police officer" means any person serving in the Force and includes the Commissioner;

"premises" means any place, vehicle, vessel, aircraft, seacraft, including an off-shore installation, or any temporary or moveable structure;

"prescribed" means prescribed by regulations made under this Act;

"protected witness" means a person admitted to a witness protection programme under article 40(1);

"seconding Member State" means the Member State of the European Union which authorizes its officers or other officials to participate in joint patrols and operations with the Police as provided in article 80(1);

"seconded officers" means officers or other officials of a seconding Member State;

"The Independent Police Complaints Board" means the board established by virtue of article 35;

"the Treaty" shall have the same meaning assigned to it by article 2 of the European Union Act. Cap. 460.

(2) Nomenclatures importing the male gender include also the female gender or the acquired gender identity.

PART II

The Malta Police Force

TITLE I

CONSTITUTION

The Malta Police Force.

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

Objectives.

4. The main objectives of the Force are:

(*a*) to preserve public order and peace, to prevent the commission of offences, to promote and enforce the observance of the laws, as a first guarantee of the rights of all persons in Malta, even before action is needed through the judicial system to repress, sanction or remedy any breach;

(*b*) to respond immediately to any request for the protection and intervention of the law;

(*c*) to apply the law without discrimination on any ground such as race, colour, language, religion, sex, sexual orientation, gender identity, disability, political or other opinion, national or social origin, association with a national minority, property, birth or other status;

(*d*) to promote the orderly and peaceful coexistence of all persons in Malta, paying due attention not only to private property rights but also to public property;

(*e*) to seek to protect the environment;

(*f*) to assist, within reasonable limits, any person seeking the help of a police or other public officer even though the ultimate responsibility to provide such help may not lie with the Force; and

(*g*) to perform honestly and effectively all those duties assigned to it by this Act or by any other law.

Police Governance Board. *Amended by: LVII.2021.4.*

5. (1) The Government shall be responsible for the strategic direction of the Force.

(2) There shall be a Police Governance Board composed of five members, one of whom shall be the Chairperson, appointed by the

Prime Minister in consultation with the Minister responsible for the Police, from amongst persons who have knowledge and experience in areas such as Policing, Strategic Management, Criminology, Public Administration and Criminal Justice.

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

(4) The Governance Board shall meet at least once a month at the place that may be established for such meetings.

(5) The quorum at meetings shall be of three members.

(6) The Commissioner of Police shall attend the Board's meetings in an *ex officio* capacity and with no voting rights.

(7) If any vacancy in the Board occurs during the year on account of inability of a member of the Board to perform the functions of his office, infirmity of mind, misbehaviour, resignation, death or for any other cause, the Prime Minister, in consultation with the Minister, shall, as soon as practicable, appoint another person to fill in the vacancy, and the person so appointed shall remain in office for the remainder of the term of office:

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

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

(*a*) is a member of the House of Representatives or of the European Parliament; or

(*b*) is a serving Judge or Magistrate; or

(*c*) is legally interdicte8.

d or incapacitated; or

(*d*) is convicted of an offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud, or of bribery or of money laundering, or has otherwise been sentenced to a term of imprisonment; or

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(*e*) is subject to disqualification under article 320 of the Companies Act; or

(*f*) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a member of the Board:

Provided that the Minister may waive the disqualification of a person under this paragraph if such person declares the interest, and such declaration and waiver are published in the Gazette.

(9) The Board shall have the following functions:

(*a*) to develop the long-term vision, purpose and direction of the Force;

(*b*) to develop a long-term strategic document;

(*c*) to advise on any recommendation brought before it; and

(*d*) to approve key organisational policies:

Provided that the strategic documents referred to in paragraphs (*a*) and (*b*) shall be submitted to the Minister for his approval.

(10) The Board shall submit an annual report of its work to the Minister and the said report shall be laid on the Table of the House of Representatives and shall be discussed in not more than one sitting within six months from the said laying.

(11) The Board shall submit its strategic documents to the Minister and the said strategic documents shall be submitted by the Minister to the Social Affairs Committee of the House of Representatives.

Commissioner of Police. *Amended by: XIX.2020.2; LVII.2021.3.*

6. (1) There shall be a Commissioner of Police, hereinafter referred to as "the Commissioner", who shall be commissioned for leading and guiding the Force, as well as regulating the appointment, duties and discipline of the Force.

(2) When a vacancy occurs in the office of Commissioner, the procedure for the appointment of a Commissioner shall be the following:

(*a*) the Public Service Commission shall issue a public call for applications subject to the necessary qualifications and experience required for a person to be eligible for appointment to the office of Commissioner;

(*b*) after examining the candidates, the Public Service Commission shall draw up a short-list indicating the two most suitable candidates. The Public Service Commission shall refer the said short-list of the two candidates to the Cabinet which shall, after giving due consideration to the two short-listed candidates, refer the candidate who it considers to be the most suitable candidate for appointment to the responsible Minister. The Minister responsible shall refer the said candidate for a parliamentary hearing by the Standing Committee on Public Appointments established under article 37 of the Public Administration Act. The provisions of article 38 of the Public Administration Act shall, *mutatis mutandis,* apply to the said hearing:

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Provided that notwithstanding the provisions of any other law or regulations, the decision of the Public Service Commission regarding the shortlist drawn up by it according to this paragraph, shall not be subject to any appeal procedure;

(*c*) if the Standing Committee on Public Appointments

advises in favour of the appointment of the selected candidate, the Prime Minister shall appoint the selected candidate after consultation with the Public Service Commission; and

(*d*) if there is only one eligible candidate, the process provided in paragraphs (b) and (c) shall, *mutatis mutandis,* be applied in respect of that candidate.

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

(4) The Commissioner may also be assisted by technical specialists that may be engaged from outside the Force.

(5) The Minister may make regulations regulating the appointment of such technical specialists.

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

(7) The Commissioner may delegate, wholly or in part, any of the powers, functions or authorities assigned to him by this Act.

(8) The Commissioner shall submit the business plan to the Police Governance Board.

Chief Executive Officer.

7. (*Deleted by Act LVII.2021.6*).

TITLE II

APPOINTMENTS AND CONDITIONS

Appointments.

8. (1) Notwithstanding any other provision of any law, regulation or order, the appointment of all police officers shall be subject to such conditions, requirements and standards as the Minister may prescribe by this Act or by regulations or orders made under this Act.

(2) The Minister may by regulations regulate any other appointment as he may determine.

Reserve constables.

9. (1) The Minister may by regulations establish the conditions by virtue of which reserve constables may be engaged.

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

(3) The same laws, rules and regulations as apply to regular police officers shall apply *mutatis mutandis* to reserve constables.

Obedience.

10. (1) Every member of the Force shall, in the execution of his duties, obey the lawful orders of his lawful superiors.

(2) An order given to a member of the Force by the lawful superior

of that member shall be deemed to be lawful, unless it is manifestly contrary to an express provision of law or a Court order.

Status of police officer. *Substituted by: LVI.2021.2.*

11. (1) Every police officer shall be deemed to be a police officer at all times and shall devote all his time to the service of the Force and shall not perform any other work, unless an authorization has been obtained in advance and in writing.

(2) Every police officer shall in the case of a business or occupation outside his official duties, request in writing the Permanent Secretary of the Ministry responsible for the Force and after such request the Permanent Secretary shall inform the Commissioner whether such request has been accepted or rejected.

Assignment of duties.

12. Every member of the Force shall be assigned duties in accordance with competence, skills, knowledge, experience and the exigencies of the Force.

Training. *Amended by: LVII.2021.7.*

13. (1) Every member of the Force shall undergo continuous professional development and undertake such training and assessment as may be prescribed.

(2) Tests may be carried out over a period of time on an assessment basis in order to appraise the efficiency and professional skill of members of the Force and may include routine medical and physical tests and urine drug screening, or alcohol, or any other similar test, to ascertain their suitability for the Force.

Oath of Office.

14. (1) Before entering upon duties on appointment, all new or re-admitted members of the Force shall take the oath of office contained in the First Schedule, which oath shall be taken and signed by all officers before a person duly empowered by law to administer an oath.

(2) All civilians including technical specialists shall be bound by the provisions of the Professional Secrecy Act.

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Resignation.

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

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

(*a*) is the subject of disciplinary proceedings before the Public Service Commission which have not been determined; or

(*b*) is charged with an offence triable by a court of criminal jurisdiction; or

(*c*) has otherwise rendered himself liable to be dismissed or removed from the Force,

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

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

Removal from office. *Amended by: LVII.2021.8.*

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

(*a*) has not given any indication of being or has ceased to be an efficient police officer; or

(*b*) is incapable by reason of some infirmity of mind or body of discharging the duties of his office when such infirmity is likely to be permanent; or

(*c*) it is considered, having regard to the conditions of the Force, the usefulness of the officer thereto, and all the circumstances of the case, that he should in the public interest no longer serve as a member of the Force; or

(*d*) owing to the influence, consumption or abuse of alcohol or any drug, whether alone or in combination with any other circumstances, is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or may, in any way whatsoever, be of discredit to the Force; or

(*e*) refuses, without a valid reason, to be tested as mentioned in article 13(2).

Uniforms and stores.

17. When any police officer shall cease to hold and exercise his office, he shall forthwith return all articles belonging to the Force which have been supplied to him as otherwise he shall be guilty of a criminal offence in accordance with article 20.

TITLE III

OFFENCES

Offences.

18. (1) Any police officer who -

(*a*) being cognisant of any mutiny or sedition amongst the Force, does not use his utmost endeavours to suppress such mutiny or sedition; or

(*b*) being cognisant of any intended mutiny or sedition amongst the Force, does not without delay give information thereof to his superior officer; or

(*c*) being present at any assemblage tending to riot does not use his utmost endeavours to suppress such assemblage; or

(*d*) deserts; or

(*e*) persuades, procures, assists or attempts to persuade, procure or assist any police officer to desert; or

(*f*) knowing that any police officer has deserted or intends to desert, does not without delay give information to his superior officer; or

(*g*) strikes, or offers violence to another officer, such officer being in the execution of his duty,

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

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

(3) The punishment provided in sub-article (1) shall apply unless the fact constitutes a more serious criminal offence under the Criminal Code or some other law, in which case such Code or such other law shall apply. Cap. 9.

Criminal offences.

19. Any person who -

(*a*) causes, or attempts to cause, or does any act calculated to cause, disorder or division amongst police officers; or

(*b*) induces, or attempts to induce, or does any act calculated to induce, a police officer to withhold his service or to commit an offence against discipline,

shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a period not exceeding one year.

Other offences.

20. (1) Any person who refuses or wilfully fails to comply with a direction given in accordance with article 17, shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a term not exceeding six months, or to a fine (*multa*) not exceeding one thousand and five hundred euro (€1,500) or to both such fine and imprisonment.

(2) Any person who through negligence fails to return any article in accordance with article 17 shall be liable to pay as a civil debt to the Force the value of the article not so returned.

False evidence on oath.

21. Any person who gives false evidence on oath before a person duly empowered by law to administer on oath, shall be guilty of a criminal offence and shall be liable, on conviction, to a term of imprisonment not exceeding two years and to general interdiction.

TITLE IV

DISCIPLINE

Proceedings in general.

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

(2) Where any powers to exercise disciplinary action are delegated in accordance with the provisions of article 110 of the Constitution, the disciplinary board shall, unless otherwise stated in the instrument of delegation, follow the procedures and shall have the powers as mentioned in the following articles of this Title:

Provided that the Commissioner may, in exceptional

circumstances including national emergency, give the necessary instructions that may be required to respond to such national emergency in the interests of national security.

Disciplinary board. *Amended by: LVII.2021.9.*

23. (1)There shall be a Disciplinary Board, appointed upon the request of the Commissioner, which shall be made up of three members, a Chairperson appointed by the Permanent Secretary in the Ministry responsible for the Police, and another two members appointed by the Senior Appointments Advisory Committee. The Board shall be appointed in accordance with the rules of the Public Service Commission:

Provided that the Chairperson shall be a Public Officer at the Ministry responsible for the Police and the other two members shall be retired Public Service officers, one of whom shall be a retired Police Officer who served in a high rank of Superintendent or higher.

(2) For the purpose of sub-article (1), the Commissioner shall also appoint a substitute Chairperson and other substitute members as necessary.

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

(4) Notwithstanding any other provision of the law, regulation and order, the disciplinary board shall regulate its own procedure, which procedure shall be published:

Provided that, if any member of the disciplinary board is the direct superior of the officer or is related by consanguinity or affinity, up to the fourth degree inclusive, to any such officer or has any professional interest in the proceedings, other than as a member of the disciplinary board, the said member shall forthwith make a declaration of such relationship or interest to the disciplinary board and such declaration shall be entered in the minutes. The said member shall thereafter abstain from taking part in the proceedings and deliberations of the disciplinary board on any question relating to such officer and from voting thereon, and shall be replaced by a substitute member.

(5) Any member who is unable to attend or who will be abstaining from participating as chairperson or member of the disciplinary board, shall be replaced by a substitute member.

(6) If a member of the disciplinary board is incapable to perform the functions of his office, due to mental illness, misconduct, death, resignation or any other reason, the Commissioner, shall as soon as possible, appoint another person from one of the substitute members to fill the vacancy, and the person so appointed shall remain in office for the remainder of the term of office.

Proceedings before the Commissioner or disciplinary board.

24. (1) Any member of the Force who commits any of the offences set out in the Second Schedule shall be charged with an offence against discipline.

(2) If the offence committed pursuant to sub-article (1) is a serious offence, the provisions of the Public Service Commission Regulations shall apply. S.L. 0.01

(3) If the offence committed is any offence other than a serious offence, the person committing such offence may appear before a disciplinary board appointed by the Commissioner.

Collection of evidence.

25. (1) The Commissioner may collect the evidence personally or may authorise the disciplinary board to collect the evidence and to recommend the relative penalty, if any, applicable in the case.

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

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

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

Prosecution and defence.

26. In proceedings before the Commissioner or disciplinary board under article 23 -

(*a*) an officer higher in rank than the officer charged shall be detailed to represent the prosecuting side and produce the evidence in support of the charge;

(*b*) the officer charged may defend himself in person, or through the assistance of an advocate, legal procurator or another police officer of his own choice, or a representative of a trade union.

Evidence and procedural rules.

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

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

(3) Summary notes of the proceedings shall be kept by the presiding officer, signed by him, and attached to the records of the case.

(4) The provisions of sub-article (2) shall also apply to the disciplinary board before submitting his opinion to the Commissioner as provided in article 28.

Delegated cases.

28. The disciplinary board appointed according to article 23(1) shall always forward to the Commissioner the relative file together with its opinion about the merits of the case and the penalty, if any, recommended by it.

Power of Commissioner.

29. The Commissioner may adopt the recommendation or reform it, either by dismissing the case and acquitting the officer charged or by reducing the punishment, if any.

Independence of actions.

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

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Punishments. *Amended by: LVII.2021.10.*

31. In proceedings before the Commissioner the following penalties may be awarded:

(*a*) a fine not exceeding seven days' pay;

(*b*) suspension from work not exceeding seven days;

(*c*) severe reprimand;

(*d*) reprimand;

(*e*) caution.

Excluded penalties.

32. (1) In case of serious offences, the following penalties may be awarded:

(*a*) dismissal; or

(*b*) requirement to resign, either forthwith or on such date as may be specified in the decision as an alternative to dismissal; or

(*c*) reduction in rank or seniority; or

(*d*) deferment of an increment or the reduction in the offender's rate of pay.

(2) The penalties referred to in sub-article (1), shall only be recommended by the Public Service Commission in terms of article 110 of the Constitution.

(3) The provisions of sub-article (1) do not preclude the Public Service Commission from imposing a penalty listed in article 31.

Notification.

33. (1) Disciplinary proceedings before the Commissioner shall be instituted within three months from the date of the commission of the offence against discipline.

(2) The officer against whom disciplinary proceedings are being instituted shall be notified of the charge issued against him by not later than three months from the commission of the offence.

Cancellation from personal record.

34. Without prejudice to the provisions of the Ġieħ ir-Repubblika Act, an offence against discipline dealt with by the disciplinary board shall no longer appear in personal records of the officer, after the lapse

of sixteen months in case of a serious offence and the lapse of ten months in the case of a minor offence, if the officer has not been found guilty of another offence during that period.

Establishment of Police Disciplinary Appeals Board. *Added by: LVII.2021.11.*

34A. (1) There shall be a Police Disciplinary Appeals Board composed of three members, one of whom shall be the Chairperson appointed by the President of Malta acting on the advice of the Cabinet of Ministers.

(2) The Chairperson of the Board shall be a person who has practised as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than seven years. The other members of the Board shall be retired public officers.

(3) The members of the Board shall hold office for a period of three years and shall be eligible for reappointment.

(4) Persons appointed as members of the Board shall hold office until their successors are appointed.

(5) The President of Malta acting on the advice of the Cabinet of Ministers may also appoint a substitute chairperson and substitute members of the Board to sit on the Board whenever the chairperson or members or any one of them is for some valid reason unable temporarily to attend and participate in the sittings of the Board:

Provided that, as far as practicable, the same chairperson and the same members shall hear and conclude the same case.

(6) (*a*) There shall be such a number of chambers of the Board as the Minister may prescribe.

(*b*) Where there is more than one chamber of the Board, cases shall be assigned to the various chambers in accordance with such rules as the Minister may prescribe.

(*c*) Each chamber of the Board shall be composed of a chairperson and two other members as provided in sub-articles (1) to (3), which together with all the other provisions of this Act other than this sub-article shall apply with respect to each chamber as if reference therein to the Board were a reference to a chamber of the Board.

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

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

(8) A member of the Board shall be removed from office by the President of Malta acting on the advice of the Cabinet of Ministers on

the ground of inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause or for misbehaviour.

(9) The Board shall have a Secretary who shall be appointed by the Minister.

Appeals from decisions of the Commissioner of Police. *Added by: LVII.2021.11.*

34B. (1) A member of the Force shall have a right of appeal to the Police Disciplinary Appeals Board in accordance with this article against a recommendation of a finding of guilt and any corresponding penalty imposed by the Commissioner of Police relating to minor offences set out in the Second Schedule, or where the member of the Force can prove that there has been a gross disregard of the procedures laid down in this Title and such disregard had prejudiced his interests.

(2) Notice of appeal under sub-article (1), setting out the grounds of the appeal, shall be communicated, in writing, to the Secretary of the Police Disciplinary Appeals Board by not later than ten working days from the date on which the decision was notified to the member of the Force concerned. A copy of the notice of appeal shall concurrently be sent by the member of the Force to the Commissioner of Police.

(3) On receiving a copy of a notice of appeal, the Commissioner of Police shall, by not later than ten working days, transmit to the Police Disciplinary Appeals Board the relevant documentation relating to the case, including the report of the Disciplinary Board.

(4) The Secretary of the Police Disciplinary Appeals Board shall acknowledge the receipt of the notice of appeal made under this article and any appeal received after the time period of ten working days established in sub-article (2) shall not be considered by the Police Disciplinary Appeals Board.

(5) If the Police Disciplinary Appeals Board is of the opinion that the appeal merits consideration in terms of sub-article (1), it may give an opportunity to the member of the Force charged and to the Commissioner of Police to make oral representations; but the Police Disciplinary Appeals Board shall otherwise regulate its own procedure in dealing with the appeal.

(6) The Police Disciplinary Appeals Board, after considering the grounds for appeal, the record of the proceedings, and any oral representations, shall proceed to decide whether the decision of the Commissioner of Police shall be confirmed as to the guilt of the appellant and, or the penalty imposed, or that the Commissioner of Police should amend or revoke it.

(7) The Police Disciplinary Appeals Board shall inform the appellant of the outcome of the appeal.

(8) Nothing in this article shall prevent the Police Disciplinary

Appeals Board, either before the hearing or at any time during the hearing of an appeal, from summarily dismissing or disallowing an appeal without hearing it or without hearing it any further as the case may be, on the grounds that an appeal is frivolous or vexatious or one that should not otherwise have been brought or made.

Suspension of penalty pending appeal. *Added by: LVII.2021.11.*

34C. A penalty imposed by the Commissioner of Police shall not be put into effect before the lapse of at least ten working days from the date on which the member of the Force was notified of the penalty by the Commissioner of Police and, if an appeal has been lodged, the penalty shall not be put into effect pending a decision by the Police Disciplinary Appeals Board.

TITLE V

INDEPENDENT POLICE COMPLAINTS BOARD

Independent Police Complaints Board *Amended by: XXXII.2018.18.*

35. (1) There shall be an Independent Police Complaints Board composed of three members, one of whom shall be the Chairperson, appointed by the President of Malta acting on the advice of the Minister.

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

(3) The Chairperson of the Board shall be a retired Judge or Magistrate. No person shall be qualified to be appointed as, or remain, a member of the Board if he is a public officer, or a member, officer or servant of any body corporate or established by law, or a serving Judge or Magistrate or a member of the House of Representatives or a member of a Local Council.

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

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

(5) A member of the Board may be removed from office by the President acting on the advice of the Minister on the ground of inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause or for misbehaviour.

(5A) (a) There shall be such number of chambers of the Board as the Minister may prescribe.

(b) Where there is more than one chamber of the Board, cases shall be assigned to the various chambers in accordance with such rules as the Minister may prescribe.

(c) Each chamber of the Board shall be composed of a chairperson and two other members as provided in sub-articles (1) to (3), which together with all the other provisions of this Act other than this sub-article shall apply with respect to each chamber as if reference therein to the Board were a reference to a chamber of the Board.

(6) The Independent Police Complaints Board shall be supported by a Legal Office and the necessary administrative staff.

(7) The Independent Police Complaints Board shall have the power to:

(*a*) summon witnesses who shall be heard on oath;

(*b*) administer an oath to any witness and to any person concerned in the investigation of the complaint and require them to give evidence.

(8) Summonses for attendance of witnesses may be in such form as may be decided by the Independent Police Complaints Board.

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

(10) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Independent Police Complaints Board, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Independent Police Complaints Board, shall be liable on conviction to a fine (*multa*) not exceeding two hundred and fifty euro (€250) or to imprisonment not exceeding one month or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of sub-article (7)(*b*), no person giving evidence before the Independent Police Complaints Board may be compelled to answer any question which tends to expose him to any criminal prosecutions, and every such person shall, in respect of any evidence given by him before the Independent Police Complaints Board, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(11) No proceedings shall be commenced in respect of any offence against sub-article (10) without the concurrence of the Attorney General.

Functions of the Independent Police Complaints Board. *Amended by: XIII.2018.27; XXI of 2020; XXIV.2020.2.*

36. (1) The the Independent Police Complaints Board shall have the following functions:

(*a*) to expeditiously inquire into and report on any matter regarding the conduct of the Force or any of its members either on its own motion on any matter referred by the Minister or on any complaint and, or request which the Independent Police Complaints Board may receive;

(*b*) to inquire and report on any complaint made to the Independent Police Complaints Board by an officer against treatment deemed prejudicial or discriminatory, or which may be the cause of undue distress;

(*c*) to request, if necessary, at any stage, the collaboration and, or assistance of the Internal Audit and Investigations Unit;

(*d*) to monitor relations between the Police Force and the public;

(*e*) to monitor, supervise and visit any cells where persons are or may be detained and to report thereon to the Police Governance Board and to the Minister;

(*f*) to perform any other function that may be assigned to it by regulations, or by any specific written instructions from the Minister;

(*g*) to recommend, in its decisions, any such action deemed fit and to send its recommendations to the Commissioner of Police and to the Social Affairs Committee about every complaint and, or request received;

(*h*) to refer its findings to the Attorney General and to the Commissioner of Police, where it results that the matter may involve criminal proceedings; and

(*i*) to submit an annual report to the Minister, the Commissioner of Police and the Social Affairs Committee.

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

(3) The complainant may also be asked to attend before the Independent Police Complaints Board and to give further information.

(4) Notwithstanding the other provisions of this Title, it shall not be lawful for the Independent Police Complaints Board to inspect or demand the production of any exempt document within the meaning of article 637(3) to (6), both sub-articles inclusive, of the Code of Organization and Civil Procedure nor to require any police officer to give any information contained in any such document. Cap. 12.

(5) It shall also not be lawful for the Independent Police Complaints

Board to demand the production of any document connected with a criminal investigation or to demand or to be given information on any such criminal investigation.

(6) A complaint shall not be entertained unless it is made not later than twelve months from the day on which the complainant first had knowledge of the matters complained about; but the Board may conduct an inquiry pursuant to a complaint not made within that period if it considers that there are special circumstances which make it proper to do so.

TITLE VI

INTERNAL AUDIT AND INVESTIGATIONS UNIT

Internal Audit and Investigations Unit.
Amended by: LVII.2021.12.

37. (1) In this Title the words "Internal Audit and Investigations Unit" mean that internal department within the Police Force, entrusted with the internal supervision of the workings of the Force in order to ensure its accountability.

(2) The Internal Audit and Investigations Unit shall be set up within the Force to check processes and internal procedures as well as to investigate any complaint on police officers made against by members of the public or by one member of the Force.

(3) Upon receipt of a complaint, the Internal Audit and Investigations Unit shall, as soon as possible, inform the Independent Police Complaints Board.

(4) The Internal Audit and Investigations Unit shall, as soon as may be, after concluding an investigation on a complaint, transmit a report and recommendations thereof to the Independent Police Complaints Board. A copy of the report and, or recommendation is to be forwarded to the Commissioner of Police.

PART III

Investigations

TITLE I

CODES OF PRACTICE AND INTERVIEWS

Codes of practice.

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

(*a*) the exercise by police officers of statutory powers -

(i) to search a person without first arresting him;

(ii) to search a vehicle without making an arrest;

(*b*) the detention, treatment, questioning and identification of persons by police officers;

(*c*) searches of premises by police officers; and

(*d*) the seizure of property found by police officers on persons or premises.

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

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

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

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

Tape-recording and video-recording of interviews.

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

TITLE II

PROTECTION OF WITNESSES AND VICTIMS

Witness protection.

40. (1) Where a person who is the victim of a crime is to be produced as a witness in any criminal proceedings against any principal or accomplice in the crime and that person is concerned for his safety or there exist concerns over that person's safety, the Commissioner may, subject to the provisions of article 39, set up a witness protection programme hereinafter referred to in this Part as "the programme".

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

Entitlement to programme.

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

(*a*) is a victim of a crime; or

(*b*) participated in any organisation or group of persons who have committed or are organised to commit any crime; or

(*c*) has participated in the commission of a crime liable to the punishment of imprisonment of seven years or more,

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

Applicability of programme.

42. With respect to a person entitled to be admitted to the programme under article 41(*b*) or (*c*) the programme shall only apply if that person declares that he will testify during any trial of any participant in the crime and any benefit granted shall be forfeited if the witness refuses to so testify.

Evidence *viva voce*.

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

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

Recommenda-tion of application.

44. In deciding whether to recommend the admission of a witness into the programme under article 41(*b*) or (*c*), the Commissioner shall take into account whether the witness provides reliable and relevant circumstantial, direct or documentary evidence to corroborate his version.

Decision by Attorney General.

45. (1) Where the Commissioner is of the opinion that a person qualifies for admission to the programme, he shall apply in writing to the Attorney General requesting such person to be admitted to the programme stating the reasons for his request and producing all supporting documents.

(2) The Attorney General shall decide on any such request in his individual judgement, and if the request is allowed the witness shall be deemed to be a protected witness under the programme.

(3) The decision of the Attorney General may not be questioned in any manner in any court or tribunal.

Criminal proceedings in respect of a protected witness.

46. (1) A protected witness who took part in the fact which constitutes a crime for which others are being or are to be prosecuted, shall not be prosecuted for any crime arising from the same fact before the proceedings in which he is or will be a witness shall have become *res judicata*:

Provided that no objection to the competence of a protected witness shall be admitted on the ground that the said witness was either charged with the same offence in respect of which his deposition is required or that he is liable to be prosecuted in the future in respect of the said offence or of a related offence.

(2) In criminal proceedings instituted against a protected witness for any crime arising from the same fact on which the protected witness would have given evidence, the court shall take into due account the fact that the protected witness gave evidence against any principal or accomplice in such manner as it deems appropriate and the

punishment of such protected witness may be mitigated or remitted and the court shall expressly refer to the provisions of this article in its judgement.

(3) In any civil proceedings instituted against a protected witness based on the fact that the said witness was the perpetrator or was an accomplice in the crime on which he tendered evidence, the court shall, if it finds that the protected witness is responsible for the payment of damages, only hold him liable for such part of the damage as he may have caused and shall, notwithstanding the provisions of articles 1049, 1050 and 1051A of the Civil Code or of any other law, hold him not liable jointly and severally with others: Cap. 16.

Provided that the exemption from joint and several liability provided for in this sub-article shall not apply in the case of damages resulting from wilful homicide or from grievous bodily harm.

(4) Notwithstanding the provisions of sub-article (2), where in criminal proceedings as provided for in sub-article (1) instituted against a protected witness -

(*a*) the prosecution declares in the records of the proceedings that the accused has tendered evidence on facts constituting a criminal offence liable to a punishment of imprisonment of more than one year which has helped the police to apprehend the person or persons who committed the said criminal offence; or

(*b*) the protected witness proves to the satisfaction of the court that his evidence has so helped the police,

the punishment for such crime shall be diminished as regards imprisonment by one or two degrees and as regards any pecuniary penalty by one-third or one-half:

Provided that the court may, if it considers that the circumstances of the case so merit, after hearing all the evidence and after convicting the protected witness, either further reduce the punishment or exempt the protected witness from punishment completely:

Provided further that, when it applies the above proviso to exempt the protected witness from punishment completely, the court shall make a report to the President of Malta stating the reasons for its action and shall expressly refer to the provisions of this article in its report.

Suspension of prescription.

47. The period of prescription in respect of the criminal action against the protected witness arising from the fact referred to in article 46 shall be suspended from the date that the Attorney General decides that the witness shall be deemed to be a protected witness, and shall continue from the day on which the last proceedings in which he is a witness for the purposes of the programme becomes *res judicata*.

Protection under programme.

48. The programme may provide for such protection to the life and property of a witness admitted to the programme and to that of members of his family in the ascending, descending or collateral line,

as the Commissioner may deem appropriate and may include provision for the payment of a subsistence allowance in particular cases.

Agreement with foreign countries.

49. The Minister responsible for the Police may enter into agreements with foreign governments providing for assistance, on the basis of reciprocity, in the implementation of witness protection programmes. For the purpose of enhancing the protection of witnesses such agreements may provide for the possibility of transferring to another country a protected witness or receiving from another country a witness admitted to a programme in that country.

Revocation of status of protected witness.

50. (1) The Attorney General may, at any time, either *ex officio* or on an application by the Commissioner, revoke a person's protected witness status under article 41(*a*) or (*b*) where it results that that person is not abiding by the conditions of the programme or that his evidence or version of the facts, or any circumstances indicated by him as corroborating evidence, are manifestly false.

(2) The protected witness status referred to in sub-article (1) may also be revoked as provided in that sub-article where the person enjoying that status commits during the period of the programme, or is reasonably suspected of having committed, during that period, any other crime punishable with imprisonment for more than three years and not being a crime of an involuntary nature.

Revocation of status of protected witness.

Cap. 9.

51. The Attorney General may also revoke a person's protected witness status granted under article 41(*a*) where it results that such person is not abiding by the conditions of the programme or where he is reasonably suspected of having committed any of the crimes referred to in articles 100 to 105 of the Criminal Code, both inclusive, or of the crimes referred to in articles 108 to 110 of the said Code, both inclusive, in relation to the fact in respect of which that status was granted.

Requests to Attorney General or to persons in authority.

52. A request by a person to be considered a protected witness may be made to the Attorney General, who shall decide the request as provided in article 45(2). The Attorney General may not be brought as a witness against the person requesting to be admitted to the programme or to prove that he made any such request.

Applicability of benefits.

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

Extension to witnesses not participants in the crime.

54. A witness protection programme may also be extended to a witness in any criminal proceedings in respect of a crime as is mentioned in article 41 and who has not participated in any way in such crime.

Hearing of vulnerable witnesses by means of a contemporaneous video conference. *Amended by: XIII.2018.27; V.2024.8.*

55. (1) Any minor, or victim of a sexual offence, or vulnerable victim or witness shall have the said interview and any statement made by them recorded by audio-visual means when interviewed by the police in the course of an investigation:

Provided that for the purposes of this sub-article, any audio-visually recorded interview or statement shall be admissible as evidence in any trial before a court of criminal judicature concerning the offence to which it relates and the provisions of sub-article (3A) of article 646 of the Criminal Code shall apply to *viva voce* evidence given by such person during the trial. Cap. 9.

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

Protection of identity.

56. (1) Notwithstanding the other provisions of this Title, where the Commissioner is of the opinion that the identity of a person merits to be protected, in circumstances where such person is willing to give the Police reliable information and documents relating to the commission of a crime consisting of an improper practice as defined in the Protection of the Whistleblower Act, which information and documents constitute reliable evidence which can be used in criminal proceedings and which provide a reasonable chance of conviction of another person for the commission of such an offence, he may recommend to the Attorney General that such person be admitted to the witness protection programme only to the extent and for the purpose that his identity as the source of the said information and documents be protected. Cap. 527.

(2) If the Attorney General, after receiving a request in accordance with sub-article (1) and acting in his own individual judgement, agrees that such protection of identity should be granted, whether subject to conditions or unconditionally, he shall issue a certificate to that effect and the Commissioner shall be entitled to protect the identity of the said person and not to give any information in any court on the identity of the said person on the basis of the said certificate.

(3) When a certificate as referred to in sub-article (2) is issued, no proceedings may at any time be taken *ex officio* against the person in favour of whom the certificate is issued only on the basis of the information and documents supplied by that person to the Police.

(4) It shall be lawful for the Attorney General, acting in his own individual judgement and after consulting the Commissioner, to revoke the said certificate, either from the original date of issue or from the date of revocation if he is satisfied that the said certificate was obtained fraudulently or on the basis of materially incorrect or misleading information having been given to the Commissioner by the person in whose favour the certificate was issued or by any other person on his behalf. In exercising his power under this sub-article the Attorney General shall give reasons for his decision.

(5) A revocation made in terms of sub-article (4) shall be without prejudice to any criminal or civil liability of any person involved in

wrongfully obtaining the said certificate.

(6) Nothing in this article shall be interpreted as a derogation from any right of the Police to protect its informers in general as may result from any law in force or applicable from time to time.

TITLE III

FINGERPRINTS, SAMPLES AND IDENTIFICATIONS

Fingerprinting and other samples.

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

(*a*) take fingerprints, palm-prints or other prints from the person arrested;

(*b*) take photographs of the person arrested or of non-intimate parts of his body;

(*c*) take non-intimate samples from the person arrested.

Returning of fingerprints, etc.

58. Any person may, within one year from the date of his acquittal by a final judgment of a court, demand that all samples, fingerprints and documents taken from him and any recordings of his voice or photographs or video recordings of him be returned to him or destroyed in his presence.

Request for return of fingerprints, etc.

59. (1) The demand mentioned in article 58 shall be made by application to a Magistrate.

(2) If the demand is allowed the Magistrate shall ensure that the material in question is returned or destroyed in his presence.

(3) If the material in question is needed in connection with any other investigation, the Magistrate may order that the return or destruction of any such material be detained until it is no longer required for the other investigation.

Request by person arrested.

60. A demand as provided in article 58 may also be made by a person who has been arrested but not charged. In such a case the application referred to in article 59 may only be allowed after the Police have been given an opportunity to reply to the application which shall be served upon the Police for the purpose. The application shall not be allowed if it is opposed by the Police and the period of prescription for the exercise of the criminal action in respect of the offence for which the applicant was arrested has not lapsed.

Disposal of unclaimed samples.

61. Where the person acquitted or the person arrested but not charged, as the case may be, fails to apply to a Magistrate as provided in articles 59 and 60, the Police may transfer anything as is mentioned in those articles to the Academy for Disciplined Forces established under Cap. 559 of the Laws of Malta, if the material is considered by the Police to have a didactic or experimental value.

Police archives.

62. (1) The Police may hold, process and classify any information relevant to the commission of any crime in or outside Malta which information may be preserved by any system whatsoever, including in electronic format, subject to the provisions of any law on the protection of data.

(2) Such information may relate to fingerprints, photographs, measurements, blood-samples, intimate or non-intimate samples, patterns of criminal behaviours and methodology in the perpetration of an offence and similar details for the purposes of any future identification of offenders. Extent of information.

(3) The Police may, for the purpose of establishing evidence in the investigation into any criminal offence, compare any such information with any other information that may become available to it. Right of comparison.

63. (1) Where any identity parade or identification of objects is considered desirable by an investigating officer, it shall be conducted by a Magistrate who shall take such steps as to ensure that there is no suggestion or outside influence on the person who is called upon to make the identification. Identifications.

(2) The Minister may make regulations for the carrying out of an identity parade or identification of objects.

TITLE IV

DUTIES OF CUSTODY OFFICERS

64. The custody officer or an officer performing the functions of a custody officer according to law shall – Duties of custody officers. *Amended by: III.2024.7.*

(*a*) release from custody a person in police detention if upon the lapse of the period of forty-eight hours from his arrest, or of such period of further detention as may have been authorised according to article 355AJ of the Criminal Code, that person has not been brought before a court within that period: Cap. 9.

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

(*b*) release any person when so ordered by the investigating officer who had proceeded to or requested his arrest;

(*c*) ensure that persons in police detention under his charge are treated in accordance with the law and according to any code of practice that may be issued;

(*d*) keep a record of anything that needs to be recorded with reference to a detained person under his charge as provided in this Act or in any code of practice that may be issued;

(*e*) in consultation with the investigating officer, attend to any medical or other humanitarian needs of the person detained and shall in no case assume personal responsibility where any medical attention is requested or manifestly required;

(*f*) seek to ensure that the place where persons under his charge are detained conforms to acceptable standards

of hygiene and comfort, especially if a detained person is to sleep therein;

(*g*) seek to ensure that there is no danger to the life of the person detained under his charge even if the person detained is left unattended.

Letter of Rights.

65. Any person who is arrested shall be promptly provided with the Letter of Rights as set out in Schedule E to the Criminal Code and the said person shall be given the opportunity to read it and to retain same in his possession throughout the time that he is detained. The Letter of Rights shall be written in a language that the person understands:

Provided that where the Letter of Rights is not available in the appropriate language, the person arrested shall be informed of his rights orally in a language that he understands and the Letter of Rights shall, subsequently and without undue delay, be provided to him in a language that he understands.

Transfer of detainee.

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

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

Review of police detention.

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

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

Records of detention.

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

(*a*) the name of the arresting officer;

(*b*) the date and time of arrest;

(*c*) the date and time that the detained person was brought to the station;

(*d*) the time of any interrogation and the duration thereof;

(*e*) the time and result of any review of detention;

(*f*) the time and nature of any requirements for medical advice or treatment and the action taken thereon;

(*g*) the date and time of any transfer of the detained person to some other place together with the location of the place in question;

(*h*) the date and time of the release of the detained person

and under whose authority the release was made;

(*i*) any allegation that the detained person is being or has been ill-treated during the period of his detention by the Police.

Searches of detained persons.

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

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

(*a*) to cause physical injury to himself or to any other person; or

(*b*) to damage property; or

(*c*) to interfere with evidence; or

(*d*) to facilitate his escape.

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

PART IV

Powers over Private Property

Limits.

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

Definition of powers.

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

(*a*) the power to remove and hold an item which may be in breach of the law, and -

(i) has not been removed by the owner within the time allowed in a written intimation served on him ordering him to remove the item or items; or

(ii) the owner of which cannot be found; or

(iii) which needs to be removed as a matter of urgency;

(*b*) the Police shall also interfere and shall for such purpose exercise such powers as are vested in them at law, when requested by the Malta Environment Authority in accordance with the provisions of the Environment Protection Act or by the Planning Authority in accordance with the provisions of the Development Planning Act.

Cap. 549.

Cap. 552.

Regulations.

72. The Minister may make regulations laying down conditions in addition to those specified in article 71 for the exercise of the powers

mentioned in that article and may also specify the terms under which anything removed in the exercise of those powers is to be released to the person entitled to the delivery thereof including the payment of any dues and expenses incurred for the removal of the said item or items.

Exemptions.

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

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

Retrieval of property.

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

PART V

The Use of Force

Procedure. *Added by: XIII.2018.27.*

74A. Any victim who makes contact with the Executive Police shall be promptly provided with a Letter of Victims' Rights and the said person shall be given the opportunity to read it and to retain same in his possession. The Letter of Victims' Rights shall be written in a language that the person understands:

Provided that where the Letter of Victims' Rights is not available in the appropriate language, the person shall be informed of his rights orally in a language that he understands and the Letter of Victims' Rights shall, subsequently and without undue delay, be provided to him in a language that he understands.

Proportionality.

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

Remedy of last resort.

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

Relevant time.

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

Arms.

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

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

widespread violence.

Responsibility.

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

Regulations.

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

General saving.

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

PART VI

Regulations, Orders and Forms

Minister may make regulations.

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

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

Commissioner may make standing orders.

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

(2) The Commissioner may also make standing orders for the general governance of seconded officers as defined under article 93.

Forms.

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

PART VII

Miscellaneous

Loyalty to Court.

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

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

Manifestly unfounded prosecutions.

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

The Police and the media.

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

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

Information in the interest of public safety and security.

88. Notwithstanding the provisions of article 87, the Police may, in the interests of public safety and security, issue warnings about any person who is at large indicating enough details for the identification of such a person and about his mode of behaviour or system of conduct.

Offences against discipline.

89. (1) Any violation of the provisions of article 87 shall be deemed an offence against discipline.

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

Liaison with Local Councils.

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

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

Enquiries by Commissioner.

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

(2) In the conduct of any such inquiry, the Commissioner shall have the same powers mentioned in article 25(2) and the provisions of article 25(3) and (4) shall also apply to the proceedings of the inquiry under this article.

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

International co-operation.

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

Joint patrols and other operations with officials from member states of the European Union.

93. (1) The Commissioner may authorize the competent authorities of a Member State of the European Union (hereinafter referred to as "seconding Member State") to conduct in Malta, jointly with or under the supervision or direction of the Police, patrols and other operations by officers or other officials (hereinafter referred to as

"seconded officers") of that State.

(2) The Commissioner may also grant the said authorization following a request by a foreign competent authority of a Member State.

Vesting or exercise of functions, powers and duties in or by seconded officers.

94. The Minister may, after consulting with the Commissioner and with the consent of the seconding Member State:

(*a*) confer any one or more of the functions, powers and duties as are by law vested in a member of the Police, to a seconded officer participating in joint operations or joint patrols with the Police, or

(*b*) authorize a seconded officer participating in joint operations or joint patrols with the Police, to exercise his executive powers in accordance with the law of the seconding Member State:

Provided that seconded officers may only exercise any function, power or duty conferred or authorized under this article under the guidance and in the presence of the Police.

Wearing of national uniform and bearing of firearms by seconded officers.

95. (1) The Commissioner may authorize seconded officers to wear their national uniform.

(2) Seconded officers shall not be in possession or use fire-arms and other offensive weapons or materials unless authorized to do so by the Commissioner. The provisions of Part V of this Act shall apply *mutatis mutandis* to a seconded officer.

Seconded officers to be deemed public officers. Cap. 9.

96. Any seconded officer taking part in any of the operations referred to in article 93 shall, for the purpose of any criminal liability incurred under the Criminal Code or any other law by that officer, or by others for conduct against that officer, be deemed to be a public officer.

Meaning of seconded officers.

97. For the purposes of articles 93 to 96, both inclusive, "seconded officers" shall be construed as including officials of bodies set up pursuant to the Treaty.

Animals used by the Force.

98. (1) The Force may make use of animals in the performance of certain operations and in ceremonial functions.

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

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

General provisions.

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

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

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

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

Extension of applicability to exclusive economic zone area or environment protection area. *Added by: XXXV.2023.21.* Cap. 362. Cap. 625.

99A. The provisions of this Act and of any subsidiary legislation made thereunder shall also apply, in accordance with the provisions of the 1982 United Nations Convention on the Law of the Sea as ratified by the Law of the Sea (Ratification) Act, to an exclusive economic zone area or an environment protection area as defined in the Exclusive Economic Zone Act and subject to the provisions of this Act, a police officer shall, in relation to any artificial island, installation, structure, equipment or device therein, have all the powers, protection and privileges which he has in Malta.

Serving police officers.

100. All persons who at the time of commencement of the Malta Police Ordinance were serving as police officers shall be deemed to have been appointed under that Ordinance as in force prior to the coming into force of the Malta Police Ordinance (Amendment) Act, 2002, and shall be considered to have duly taken the oath of office as required by such law.

PART VIII

Pensions

Minister may make pension regulations.

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

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

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

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

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

officer's retirement.

Pensions to be charged on revenues of Malta.

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

Circumstances in which pension may be granted. *Amended by: LVI.2021.3.*

103. (1) No pension shall be granted to any police officer except on his retirement from the Force in any one of the following cases:

(*a*) on or after attaining the age of sixty-four (64) years or if he has completed twenty-five (25) years of service in the Force:

Provided that whenever a police officer who has already obtained the full pensionable emoluments is reinstated as a member of the Force, he shall serve as a member for a period of not less than two (2) years in order for his pension to be reviewed.

(*b*) on the abolition of his office;

(*c*) on compulsory retirement for the purpose of facilitating improvement in the organisation of the Force, by which greater efficiency and economy can be effected;

(*d*) in the case of termination of employment in the public interest as provided in this Act;

(*e*) on medical evidence to the satisfaction of the Minister that such police officer is incapable, by reason of infirmity of mind or body, of discharging the duties of his office and that such infirmity is likely to be permanent:

Provided that if a police officer is, without his own default, seriously injured during the course of his duties and due to such injury he is incapable of discharging the duties of his office, and has been duly certified as such by an Injuries Board made up of medical and other professionals appointed by the Minister responsible for the Police, such officer may be entitled to pensionable emoluments as if he had completed the twenty-five years' service:

Provided further that, if a police officer, without his own default, dies as a direct consequence of him having carried out the duties of his office, his dependants, unless otherwise precluded at law, will be entitled to the payment of such pensionable emoluments, as mentioned hereunder.

(2) For the purpose of sub-article (1)(e), the pensionable emoluments shall be granted to:

(*a*) the surviving spouse or partner of the deceased until such spouse remarries or such partner contracts another union of equivalent status in accordance with the Civil Unions Act or reaches pensionable age; or Cap. 530.

(*b*) in the absence of an eligible spouse or partner, the child or children of the deceased until such child or children attain the age of eighteen years or until such child or children attain the age of twenty-three years if

attending a full-time educational institution; or

(*c*) in the absence of children, a parent or immediate family relative who was wholly dependent on him for maintenance, for a period of five years from the death of the police officer subject to the retention of a state of dependency.

(3) For the purposes of sub-article (2)(b), the pensionable emoluments shall be granted to the child or children equally divided and, in the case of minors, entrusted to their legal guardian as defined in the Child Protection (Alternative Care) Act.

Cap. 569.

Retirement on the ground of public interest.

104. Where a police officer's service is terminated on the ground referred to in article 16(c), and a pension cannot otherwise be granted under the provisions of this Act, such police officer may be granted a pension not exceeding in amount that for which he would be eligible if he retired from the Force in the circumstances described in article 103(1)(e).

Maximum pension which may be granted.

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

(2) For the purpose of sub-article (1), an additional pension granted in respect of injury shall not be taken into account; but where a police officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his service in the Force by more than the sum by which his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

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

"month" means a calendar month;

"pensionable emoluments" include -

(*a*) salary,

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

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

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

"year" means a calendar year.

Pensions not to be assignable.

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

Cap. 12.

Pension to be reduced in certain circumstances.

107. (1) A police officer who retires on grounds listed in article 103(1)(*e*), to whom a pension has been granted under this Act and who is in receipt of -

(*a*) any remuneration in respect of any employment, or of any services rendered, or of any office held; or

(*b*) any income deriving from the exercise of a trade, business, profession or vocation; or

(*c*) any income deriving from any pension, allowance or other payment in respect of any employment, service or office aforesaid,

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

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

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

(*a*) the pension which, but for the provisions of this article, would have been receivable under this Act; and

(*b*) any remuneration or income referred to in subarticle(1)(*a*), (*b*), or (*c*), or both such remuneration and income; and

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

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

(4) Any officer to whom sub-article (1) applies shall without delay inform the Director General (Social Security), and keep him at all times informed, of all the circumstances which render the said sub-

article (1) applicable to him and the extent to which it is so applicable, and of any change in the circumstances or extent aforesaid, and shall give the Director General (Social Security), on request, all relevant information; and if such officer fails to comply with any of the provisions of this sub-article any pension to which he may be entitled under this Act shall forthwith cease:

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

Repeal and saving.

108. **See footnote hereunder.*

Transitory provision. *Added by: XXXII.2018.19.*

108A. (1) Any inquiry, complaint, proceedings or other procedures which have hitherto been filed, instituted or followed before the Police Board prior to the entry into force of this Act which were valid at the time when such inquiry, complaint, proceedings or procedures were filed, instituted or followed shall continue to be valid after the entry into force of this Act.

(2) The provisions of sub-article (1) shall apply also to any recommendation, order or other decision delivered by the said Board and to the enforcement of such order and decision.

(3) The provisions of this Act shall apply to any procedures that were pending before the Police Board and which on the date of entry into force of this Act were still pending and have not been finally concluded.

(4) All causes which were pending before the Police Board shall be continued before the Independent Police Complaints Board.

FIRST SCHEDULE

(Article 14)

Oath of office of Police Officers

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

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*(1) The Police Act, 1961, (hereinafter referred to as "the repealed Act") is hereby repealed, without prejudice to anything done or omitted to be done thereunder.

(2) Notwithstanding the provisions of sub-article (1), any order, rule, regulation, bye-law, notice or other instrument having the force of law made under the authority of the repealed Act shall continue in force and shall continue to have effect as if made under this Act and may be amended, substituted or revoked accordingly.

SECOND SCHEDULE

Amended by: LVII.2021.13.

(Article 24)

OFFENCES AGAINST DISCIPLINE

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

(*a*) uses any defamatory, insulting, or disparaging words, acts or gestures in contempt of the President of Malta or of the Government of Malta or of any person employed or concerned in the administration of the Government of Malta; or

(*b*) imputes misconduct in administering the Government to a person employed in the administration of the Government of Malta; or

(*c*) utters or otherwise expresses disparagement of the Commissioner, or of the administration of the Force, or uses any word or expression calculated or having a tendency to bring the Commissioner or the administration of the Force into hatred, contempt or ridicule; or

(*d*) acts or issues any orders, or causes or incites anyone to act, in variance with any orders or directions issued from time to time by the Commissioner, or from Police Head Quarters on behalf of the Commissioner; or

(*e*) utters or writes anything calculated or having a tendency to bring about disaffection among any members of the Force, or in any manner canvasses or causes, or attempts to canvass or cause, or to do or to be done, anything so calculated or having such tendency; or

(*f*) induces, or attempts to induce, or does any act, calculated or having a tendency to induce any member of the Force to withhold his services or to commit any breach of discipline; or

(*g*) acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the Force or of the Police service.

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

(*a*) is insubordinate by word, act, or demeanour; or

(*b*) is guilty of oppressive or tyrannical conduct towards an inferior in rank; or

(*c*) uses obscene, abusive or insulting language to any other member of the Force; or

(*d*) wilfully or negligently makes any false complaint or statement against any member of the Force; or

(*e*) assaults any other member of the Force when this does not constitute a breach of article 18(1)(*g*) of the Act; or

(*f*) improperly withholds any report or allegation against any member of the Force.

Disobedience to orders.

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

(*a*) disobeys or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise; or

(*b*) wilfully refuses or neglects to discharge any lawful debt; or

(*c*) carries on or is concerned in any trade or business, or otherwise fails to devote his whole time to the Police service without the necessary authorization.

Neglect of duty.

4. Neglect of duty, that is to say, if a member of the Force -

(*a*) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is his duty as a member of the Force; or

(*b*) idles or gossips while on duty; or

(*c*) fails to work his beat in accordance with orders or leaves his beat, point, or other place of duty to which he has been ordered, without due permission or sufficient cause; or

(*d*) by carelessness or neglect permits a prisoner to escape; or

(*e*) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making him amenable to justice; or

(*f*) fails to report any matter which it is his duty to report; or

(*g*) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he, or any person within his knowledge, can give for or against any prisoner or defendant to a criminal charge; or

(*h*) omits to make any necessary entry in any official document or book; or

(*i*) neglects, or without good and sufficient cause omits, to carry out any instructions of a medical officer acting on behalf of the Commissioner or of the Chief Government Medical Officer, or, while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his return to duty.

Falsehood or prevarication.

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

(*a*) knowingly makes or signs any false statement in any official document or book; or

(*b*) wilfully or negligently makes any false, misleading or

inaccurate statement; or

(*c*) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.

Breach of confidence. *Amended by: L.N. 292 of 2020.*

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

(*a*) divulges any information which he obtained by virtue of the functions of his office or which it is his duty to keep secret under a specific provision of the law; or

(*b*) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons; or

(*c*) without proper authority communicates to the public press, or to any unauthorised person, any matter connected with the Force; or

(*d*) without proper authority shows to any person outside the Force any book or written or printed document the property of the Police or of any government department; or

(*e*) does not abstain from any political activity or canvassing or from any activity which is likely to interfere with the loyal and impartial discharge of his duties, or which is likely to give rise to the impression among members of the public that it may so interfere; or

(*f*) makes any anonymous communication to the Commissioner or to any other Police officer, unless the anonymous communication is made in accordance with the procedure indicated in the prevalent anti-fraud and corruption policy of the Force, or to any government department or officer; or

(*g*) canvasses or attempts to canvass any member of the Public Service Commission or of any other body or organ of the Government, with regard to any matter concerning the Force; or

(*h*) signs or circulates any petition or statement with regard to any matter concerning the Force, except as provided by this Act or by any regulations or standing orders made thereunder.

Corrupt practice.

7. Corrupt practice, that is to say, if a member of the Force -

(*a*) receives any bribe; or

(*b*) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity; or

(*c*) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial, without the consent of the Commissioner; or

(*d*) places himself under pecuniary obligation to any competent authority, or any person who holds a licence

granted by the Commissioner or concerning the granting or renewal of which the Police may have to report or give evidence; or

(*e*) improperly uses his character and position as a member of the Force for his private advantage; or

(*f*) in his capacity as a member of the Force, writes, signs or gives, without the sanction of the Commissioner, any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application of any kind; or

(*g*) without the sanction of the Commissioner, supports an application for the grant of a licence of any kind; or

(*h*) without good and sufficient cause, is or becomes subject to pecuniary embarrassment.

Unlawful or unnecessary exercise of authority.

8. Unlawful or unnecessary exercise of authority, that is to say, if a member of the Force without good and sufficient cause -

(*a*) makes an arrest; or

(*b*) uses any violence to a prisoner or any other person with whom he may be brought into contact in the execution of his duty; or

(*c*) is uncivil to any member of the public.

Malingering.

9. Malingering, that is to say, if a member of the Force feigns or exaggerates any sickness or injury with a view to evading duty.

Absence without leave.

10. Absence without leave or being late for duty, that is to say, if a member of the Force without reasonable excuse is absent without leave from, or is late for, parade, court or any other duty.

Uncleanliness.

11. Uncleanliness, that is to say, if a member of the Force while on duty or while off duty in uniform in a public place is unshaven, or improperly dressed, or is dirty or untidy in his person, clothing or equipment.

Damage to clothing, etc.

12. Damage to clothing or other articles supplied, that is to say, if a member of the Force -

(*a*) wilfully or by carelessness causes any waste, loss or damage to any articles of clothing or equipment, or to any book, document or other property of the Police or of any government department; or

(*b*) fails to report any loss or damage as above however caused.

Drunkenness.

13. Drunkenness, that is to say, if a member of the Force while on or off duty, is unfit for duty through drink.

Drinking on duty.

14. Drinking on duty or soliciting drink, that is to say, if a member of the Force -

(*a*) without the consent of his superior officer, drinks, or receives from any other person, any intoxicating liquor while he is on duty; or

(*b*) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor while he is on duty.

15. Entering licensed premises, that is to say, if without permission a member of the Force enters - Entering licensed premises.

(*a*) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed, when his presence there is not required in the execution of his duty; or

(*b*) any such premises in uniform while off duty.

16. Lending, borrowing or accepting presents, that is to say, if a member of the Force lends money to any superior in rank or borrows money or accepts any present from any inferior in rank. Lending money, etc.

17. Conviction for a criminal offence, that is to say, if a member of the Force has been found guilty by a court of law of a criminal offence. Criminal conviction.

18. Being an accomplice in a disciplinary offence, that is to say, if a member of the Force connives at, or knowingly commits an act of complicity in, any offence against discipline. Accomplice in offence.

19. Breach of order, that is to say, if a member of the Force conducts himself, by act or omission, in any manner prejudicial to good order or discipline, or otherwise unbecoming a member of the Force, and not elsewhere provided for in this Schedule. Conduct prejudicial to good order.

20. For the purposes of this Schedule the word "prisoner" means any person in any legal custody or detention, whether sentenced, or awaiting trial, or detained by the Police, or held under a lawful warrant or order. Interpretation.

THIRD SCHEDULE

(Article 38)

CODE OF PRACTICE FOR INTERROGATION OF ARRESTED PERSONS

General Rules

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

1. Purpose of questioning

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

2. Importance of statements

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

3. Place where questioning may occur

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

4. Caution

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

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

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

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

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

PROCEDURES FOR QUESTIONING

5. Identification of police officers

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

6. Recording of caution

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

7. Details of recording

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

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

8. Procedure for drafting of statement

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

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

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

9. Statement to be read by criminal suspect

When the writing of a statement by a police officer is finished, the person making it shall be asked to read a copy of it and to make any further statement in which he may make any corrections, alterations or additions he wishes. If the interviewed person cannot or refuses to read the statement, the statement shall be read to the suspected person. Following this, the suspected person shall be asked to sign it at the end and initial every page as well as any further statement which he decides to make.

10. Signing of Statement by Police

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

11. Registration in Records of Arrested Persons

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

12. Rule against questioning during night

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

13. Periods of rest

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

(*a*) there would be a serious risk of injury to persons, or damage to or substantial loss of property;

(*b*) the period of arrest would be unnecessarily prolonged;

(*c*) the investigation would be seriously prejudiced.

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

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

(*a*) involve risk of harm to persons or serious loss of, or damage to, property;

(*b*) delay unnecessarily the person's release from custody; or

(*c*) otherwise prejudice the outcome of the investigation.

14. Stratagems

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

15. Special attention for juveniles

Special attention should be given when persons under 18 years of age are being interviewed. As far as possible, and if this is not prejudicial to the investigation, these persons should be interviewed in the presence of one of the parents, or their tutor, or in the presence of any other person, not being a member of the Police Force, who is of the same sex as the interviewed person, e.g. the person who has the effective care and custody of the young person, or a social worker.

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

16. Oppression

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

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

Therefore,

(*a*) the person being interrogated shall always and at all times be seated, if he so wishes, during the questioning;

(*b*) foul language, threats, deprecatory laughter and menacing gestures are forbidden;

(*c*) under no circumstances shall any person present during the questioning hold or exhibit any firearm or other weapon, even if jokingly; however, the detained person may be shown such firearms or weapons connected with the investigation, where this is necessary;

(*d*) no person being questioned shall be bound by any rope, chain or other shackle, but may be handcuffed if this is reasonably justified for his own safety or that of others or to prevent his escape.

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

17. Interrogation of persons with disability and other persons

(*a*) If it appears to a Police Officer that a person whom he intends to interview has an intellectual disability which raises a doubt as to whether the person can understand the questions put to him, or which makes the person likely to be especially open to suggestion, the officer should take particular care in putting questions and accepting the reliability of answers. As far as practicable, a person with an intellectual disability should be interviewed only in the presence of a parent, or his tutor or other person, not being a member of the Police Force, who is of the same sex as the person being interviewed, e.g. the person who has

the effective care and custody of the person with disability or a social worker;

(*b*) any document reporting an interview with a person with an intellectual disability (after the investigating officer shall have ascertained that the interviewed person was capable of making the statement) should be offered for signature not only to the person with disability but also to the mother or father or other accompanying person present during the interview; care should be taken to verify the facts stated and to obtain corroboration where possible;

(*c*) in the case of potentially vulnerable persons, (e.g. persons under the influence of drugs, alcohol, medicine, or who are in a state of shock) precautions should be taken to ensure that the statement is made by them when they are able to appreciate the significance of the questions and their answers, and that the statement is not the result of undue influence by the interviewing officer.

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

18. Statements in languages other than Maltese or English

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

(*a*) does not understand the Maltese or English language; or

(*b*) the person conducting the interview does not understand a language spoken by the interviewed person.

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

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

(*b*) a Maltese translation should be made in due course and be annexed as an exhibit with the original statement;

(*c*) only the original statement need be offered to the person making the statement.

19. Effect of this Code

The lack of observance of any of the provisions of this Code will not invalidate the statement taken, unless such non- observance nullifies the voluntariness of the statement. However, disciplinary

proceedings may be instituted against persons who do not observe the provisions of this Code.

20. Rules of guidance

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

FOURTH SCHEDULE

[Article 101]

POLICE PENSIONS REGULATIONS, 1990

General Regulations

Citation.

1. The title of these regulations is the Police Pensions Regulations, 1990.

Pensions to whom and at what rates to be granted.
Amended by: L.N. 10 of 2024; L.N. 281 of 2024.

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

(2) For the purposes of these regulations, the term 'Police officer' shall also include persons who have served in the Armed Forces of Malta and the Malta Correctional Services and before serving in the Police Force and any uninterrupted period of service within the Armed Forces of Malta and the Malta Correctional Services prior to the period of service as a Police officer shall be reckoned as service in a disciplined force and qualifying for a pension under the terms and conditions of the Act:

Provided that any serving police officer shall have the period served during any paid full-time basic induction course or paid full-time cadetship course considered as service in a disciplined force upon successful completion of the said course, for the purposes of pension in accordance with the terms and conditions of the Act:

Provided further that the period served as a Police Patrol and Community Support Officer for a period not exceeding five (5) years shall be considered as service with the Force once the officer joins the Force as a regular police officer, and shall have the years of service carried out as Police Patrol and Community Support Officer counted on a ratio of 1:0.5 to be considered on a notional basis for the purpose of

salary scale and for the purpose of joining the Force as a sworn officer.

Service to be unbroken.

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

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

(*a*) if the whole intervening period has been spent in some other employment in the service of the Republic; or

(*b*) in the case where such Police officer, having resigned from the Force, is subsequently recalled in the Force with the approval of the Prime Minister on account of the exigencies of the Force, and such recall is certified by the Prime Minister.

Emoluments to be taken for computing pension.

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

(*a*) in the case of a Police officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;

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

(*c*) in other cases one third of the aggregate pensionable emoluments enjoyed by the Police officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken:

Provided that -

(i) if such one third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years those annual pensionable emoluments shall be taken; and

(ii) if such one third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all scale

increments which, in the opinion of the Prime Minister would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

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

(*a*) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and

(*b*) to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase has been payable throughout such period of three years.

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

(*a*) the average annual pensionable emoluments enjoyed by him during such period shall be taken;

(*b*) he shall be deemed to have been on duty on full pensionable emoluments throughout such period;

(*c*) he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period; and

(*d*) any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the President, and during which he has not qualified for pension in respect of other public service.

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

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

(*a*) where such officer reaches the age of retirement; or

(*b*) where such officer would have but for his dismissal completed 25 years' service; or

(*c*) where such officer dies,

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

dismissed.

Computation of pensions.

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

(*a*) any periods during which he has been on duty;

(*b*) any period during which he received half salary;

(*c*) any periods during which he has been absent from duty on leave with full or half salary;

(*d*) any period following dismissal from the Force, where such dismissal is subsequently declared to have been invalid by a competent authority, up to the time of reinstatement, or the date when such Police officer would have completed 25 years' service, or the day on which such Police officer would have to retire because of age, or the date when such officer dies, whichever is the earlier.

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

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

Acting service.

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

Provided that -

(*a*) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the officer's own pensionable service in the Force under this Act ;

(*b*) this period of service is immediately preceded or followed by service in a substantive capacity in the Force.

Abolition or reorganization of office.

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

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

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

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

Rates of pension when offices are abolished.

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

Provided -

(*a*) the addition shall in no case exceed ten sixtieths; and

(*b*) no addition shall be made so as to qualify an officer for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age at which he may be required to retire, or for a pension of higher annual value than the maximum prescribed in article 125 of the Act.

Officers retiring on account of injuries.

9. Where a police officer has sustained a physical injury on duty leading to a permanent disability -

(*a*) without his own default; and

(*b*) during the actual discharge of his duties; and

(*c*) is, due to such injuries, incapable of fulfilling any other role in the Force; and

(*d*) has been duly certified by an Injuries Board appointed by the Minister responsible for the Police in accordance with the first proviso to paragraph 123(e),

such officer shall be entitled to pensionable emoluments as if he had completed the 25 years' service.

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

10. (1) Where a police officer, without his own default, dies as a direct and immediate consequence of him having carried out the duties of his office, his dependants, unless otherwise precluded at law, shall be entitled to the payment of such pensionable emoluments as mentioned hereunder.

(2) For the purpose of sub-regulation (1), his pensionable emoluments shall be granted to:

(*a*) the surviving spouse or partner of the deceased until such spouse or partner remarries or contracts a union of equivalent status in accordance with the Civil Union Act or reaches pensionable age; or

(*b*) in the absence of an eligible spouse or partner, the child or children of the deceased until such child or children attain the age of 18 years or until such child or children attain the age of 23 years if attending a full-time educational institution; or

(*c*) in the absence of children, a parent or immediate family relative who was dependent on him for maintenance for a period of 5 years from the death of

the police officer subject to the retention of a state of dependency:

Provided that the pensionable emoluments granted to the child or children as provided in paragraph (b) shall be equally divided and, in the case of minors, entrusted to their legal guardian as defined in the Child Protection (Alternative Care) Act.

Cap. 569.

Good conduct required.

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

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

Cross-border payments.

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

Information to persons entitled to a pension, gratuity or allowance.

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

Increase in pensionable emoluments.
Added by:
L.N. 312 of 2023.
Amended by:
L.N. 124 of 2024;
L.N. 271 of 2024;
L.N. 14 of 2025;
L.N. 247 of 2026.

14. (1) The provisions of this regulation shall apply to officers in service on or after 1st October 2023:

Provided that officers who retired during the year 2023 because they reached pension age or were medically boarded out shall also benefit from these provisions:

Provided further that these provisions shall apply to officers who were reinstated as members of the Force as long as they serve for a period of at least four (4) years from the date of reinstatement, as stipulated in sub-regulation (2).

(2) Save as otherwise expressly provided in this Act and any subsidiary legislation made thereunder, an officer who has completed the twenty-five (25) years of service and who decides to remain in the Force for an additional period of four (4) years shall be entitled to an increase of twenty-nine per cent (29%) in his pension.

(2a) Notwithstanding the provisions of sub-regulation (2), where an officer holding the office of Commissioner of Police has served, or is deemed to have served, a term of four (4) years in such office prior to or upon the completion of twenty-five (25) years of service in the Force, such term of four (4) years shall, for the purposes of this regulation, be deemed to constitute the additional period of four (4) years referred to in sub-regulation (2):

Provided that such officer shall, upon completion of

twenty-five (25) years of service in the Force, become entitled to the increase in pension provided for in sub-regulation (2) and, for the purposes of sub-regulation (3), shall be deemed to have completed twenty-nine (29) years of service in the Force:

Provided further that any service rendered by such officer after the completion of twenty-five (25) years of service in the Force shall, for the purposes of sub-regulation (3), be considered as service beyond twenty-nine (29) years of service, subject to the maximum period of six (6) years provided in sub-regulation (3).

(3) If the officer continues to serve beyond the twenty-nine (29) years in the service in accordance with sub-regulation (2), he shall be entitled to an additional sum equivalent to six (6) months' basic salary for each additional year of service, which additional period of service for the purposes of the said payment shall not exceed a maximum of six (6) years of service.

(4) Without prejudice to sub-regulation (3), the officer shall be granted a gratuity on a *pro rata* basis if a full year or years of additional service have not been completed due to illness or if the officer has reached retirement age as defined in the Social Security Act. Cap. 318.

(5) Gratuities in accordance with these regulations shall be payable on retirement of the officer or on completion of thirty-three (33) years of service:

Provided that upon the request of the beneficiary, gratuities shall be paid at the end of each of the four (4) years covered by this provision.

(6) Where an officer who has completed twenty-five (25) years of service with the Force, has also satisfied the conditions set out in regulation 11 and opts to continue to serve with the Force thereafter, the said officer shall be entitled to the pension payable upon the completion of twenty-five (25) years of service, notwithstanding any event which may occur during the period subsequent to the completion of the said twenty-five (25) years of service and which may give rise to the applicability of the provisions of regulation 11 of this Schedule and of the provisions of regulation 35 of the Public Service Commission Disciplinary Regulations: S.L. Const.07.

Provided that this shall be without prejudice to the possibility of accruing additional pension benefits:

Provided further that the provisions of regulation 11(2) shall apply to the pension payable to the officers referred to in this regulation for the period subsequent to the completion of the said twenty-five (25) years of service.

Pensionable emoluments to surviving spouse or partner.
Added by: L.N. 312 of 2023.
Cap. 318.

15. Where an officer dies before reaching his pension age as defined in the Social Security Act, whether he is still in service as well as if he already retired and is receiving a pension under this Act, the surviving spouse or partner shall be paid a widows pension for a period not exceeding five (5) years from the death of the said officer, or until the date when the officer would have reached the said pension age, whichever comes first. The widows pension shall be equivalent to the proportion indicated in the Twelfth Schedule to the Social Security Act, equivalent to two-thirds of the basic salary of the officer on his death or on his retirement, as applicable:

Provided that for the purposes of this regulation, "partner" shall have the same meaning assigned to it in article 2 of the Civil Unions Act:

Cap. 530.

Provided further that the pension shall only be granted if the said officer has served in the Force for a period of at least ten (10) years:

Provided further that the provisions of this regulation shall apply retroactively in case of officers who were deceased on or after 1st January 2022, but before the coming into force of these regulations.