

L.N. 207 of 1999

**CIVIL PROTECTION ACT, 1999
(ACT NO. XV OF 1999)**

Civil Protection (Discipline and Association) Regulations, 1999

IN exercise of the powers conferred by sections 7 and 8 (5) of the Civil Protection Act, 1999, the Minister for Home Affairs has made the following regulations:-

PART I

Preliminary

Citation and
commencement.

1. (1) The title of these regulations is the Civil Protection (Discipline and Association) Regulations, 1999.

(2) These regulations shall come into force on such date as the Minister responsible for Civil Protection may by notice in the Gazette establish, and different dates may be so established for different provisions thereof.

Application of
these regulations
and interpretation.

2. (1) These regulations shall apply to all members of the Assistance and Rescue Force established in terms of section 8 of the Act.

(2) In these regulations, unless the context otherwise requires:-

“Act” means the Civil Protection Act, 1999;

“Association” means the Civil Protection Staff Association referred to in regulation 13;

“Department” means the Department of Civil Protection;

“Director” means the Director of Civil Protection and includes, to the extent of the authority given, any other public officer authorised in that behalf by such Director with the Minister’s approval for the period of time as the Minister decides;

“Force” means the Assistance and Rescue Force referred to in section 8 of the Act;

“Minister” means the Minister responsible for Civil Protection and includes, to the extent of the authority given, any person authorised on that behalf for any purpose of these regulations.

PART II

Civil Protection Department and Personnel

Duties, Discipline, Association and Other Related Matters

3. Civil Protection personnel shall be employed on such duties as to afford protection of the population against the effects of any form of natural or man-made disaster or emergency necessitating coordinated measures and services by central and local government in conjunction with other competent agencies and non-governmental organisations with the aim of saving lives and property, reducing casualties, maintaining essential services and supplies, and in general organising such protective measures, training and education as are deemed necessary and possibly to prevent the occurrence of such disasters.

Functions
and duties.

4. (1) The Department of Civil Protection shall comprise a Director and such other officers of such ranks as may from time be approved by the Minister.

Department
of Civil Protection.

(2) The Director shall have the command, control and direction of the Department.

(3) The Department shall comprise also an Assistance and Rescue Force set up in terms of section 8 of the Act.

5. (1) The Director shall make and transmit to the Minister a report dealing generally with the activities of the Department and the status of civil protection in Malta in the preceding year.

Annual report.

(2) The report shall be submitted to the Minister, unless otherwise directed by him, within the first four months of the year following the year to be reported upon.

6. (1) The Director shall ensure that officers under his command shall maintain and improve their knowledge and their efficiency in civil protection matters by attending courses of in-service training and lectures at suitable intervals.

Training
of officers
and other
persons.

(2) The Director shall ensure also that persons from outside the Department assisting civil protection personnel in dealing with emergency or disaster circumstances, are trained in related matters and for this purpose it shall be part of his duties to see that courses are regularly organised by the department for them in order to improve their knowledge and capabilities to deal with such situations, and for them to maintain the necessary links with civil protection personnel.

Duties of
Civil Protection
personnel.

7. (1) The Director shall assign to all officers of the Department as well as to all other persons employed with or assisting the Department, the duties to be carried out by them.

(2) Such duties shall, where practicable and necessary, be set out in detail in written orders made by the Director.

(3) It shall be the duty of every officer to promptly comply, without hindrance or challenge, with such written orders and with any other order or directive given by the Director or other senior officer of the Department.

(4) In addition officers of the Department shall -

(a) perform their duties with a high degree of vigilance, competence and discipline;

(b) pay strict attention to cleanliness and dress, and shall always wear the approved uniform when on duty;

(c) devote their whole time to the service of the Department, and shall not carry on or be concerned in any kind of trade or business whatsoever;

(d) be liable to be stationed at such places as the Director may from time to time appoint; and

(e) be deemed to be on duty at all times.

(5) (a) No person appointed to the Force, other than by promotion within the Force, shall enter upon the duties of the office, or act in any way in connection therewith, before he has taken the Oath of Office set out in the Schedule to the Act.

(b) The Oath of Office shall be taken and signed by all officers appointed to the Force before a person duly empowered to do so by the Minister, or before the Director.

8. (1) An officer of the Department who has any complaint or request to make in connection with his duties or situation in the Department shall submit such complaint or request to the Director.

Complaints
or requests
by staff.

(2) The Director, if unable to dispose of such complaint or request himself, shall submit the case with his remarks for the consideration of the Minister.

(3) If the Director declines to attend to a complaint or request of such officer or to take any action thereon within 15 days, the officer shall be entitled to submit his representations in writing to the Minister through the Director. The Director shall transmit such representations to the Minister without delay.

(4) An officer making a frivolous or vexatious complaint or request shall render himself liable to disciplinary action.

9. (1) Any member of the Force who commits any of the offences set out in the First Schedule to these regulations shall be guilty of an offence against discipline.

Offences
against discipline
by members of the
Force.

(2) (a) Disciplinary proceedings shall be regulated according to section 110 of the Constitution.

(b) Where any powers are delegated according to section 110 of the Constitution to the Director to exercise disciplinary action, the Director shall adopt the following provisions:

i. The Director shall appoint a Senior Officer to collect the evidence and to recommend the relative punishment applicable in the case, if any.

ii. The Director may not conduct such proceedings where he is a direct witness of the fact alleged and has to give evidence on oath.

iii. The Director or a Senior Officer shall have the power and authority to hear evidence on oath, and a warrant signed by him shall be equivalent to a subpoena issued to compel a witness to attend or to produce documents.

iv. No person summoned as a witness shall be obliged to answer any question or produce any document

which may tend to incriminate him and every such person shall, in respect of any evidence given by him in the enquiry be entitled to all the privileges to which a witness giving evidence before the Court of Magistrates in criminal matters is entitled in respect of evidence given by him before such court.

v. Any person who, in evidence on oath before the Director or a Senior Officer, gives false evidence, 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.

(3) In proceedings as are mentioned in subparagraph (b) of paragraph (2) of this regulation the Director shall ensure that:

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

(b) the officer charged may defend himself in person, or through the assistance of another officer of his own choice, or of a representative of the Association of which he is a member.

(4) (a) The officer charged may summon witnesses on his own behalf, and cross examine witnesses brought against him.

(b) The Director or Senior Officer shall hear final submissions, both on the merits and on the punishment awardable, from the prosecution and the defence before giving his decision and awarding punishment, if any.

(c) The rules of evidence which would be applicable in a court of law shall apply to such proceedings, and summary notes are to be taken by the presiding officer, signed by him, and attached to the records of the case.

(5) The Senior Officer appointed by the Director according to subparagraph (b) of paragraph (2) of this regulation shall always transmit to the Director the relative file together with his opinion therein about the merits of the case and the punishment, if any, recommended by him, and the Director may adopt the recommendation or reform it either by acquitting the officer charged or reducing the punishment, if any.

(6) Before deciding on a case the Director shall, within seven days of the transmission of the recommendation to him by the Senior Officer in accordance with the previous paragraph, notify the officer charged as to the punishment, if any, to be awarded and the officer may, if he is not in agreement with the said recommendation, within seven days from the notification, make written representations to the Director, or to the Permanent Secretary at the Ministry in the event that the disciplinary case was heard by the Director himself. The decision of the person to whom the appeal is made shall be final.

(7) The Director may with the approval of the Minister make rules regarding the procedure to be followed in the preliminary hearing into an allegation of a disciplinary offence.

(8) 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 any of such laws shall be without prejudice to any such disciplinary procedures for the same fact.

(9) All penalties imposed in respect of offences against discipline shall be recovered from the offender's pay which is due or is to become due; provided that the Director may, after taking into consideration the number of the dependants of the officer and other similar factors, spread the payment of such penalty over a number of monthly instalments not exceeding the equivalent of one day's salary of the offender or may give him the option to compensate through extra hours to be worked.

10. It shall be lawful for the Minister to remove from his office at any time an officer of the Force who - Removal from office.

(a) is considered unlikely to become, or has ceased to be, an efficient 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) after considering the conditions of the Force, the circumstances of the case and the usefulness of the officer in the Force, it is considered in the public interest the officer should not continue to serve as a member of the Force.

Uniforms and
stores.

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

Prohibition
of membership
of trade union.

12. In accordance with section 8 (7) (a) of the Act, it shall be an offence against discipline for any member of the Force to be or to become a member of -

(a) any trade union, or any body or association affiliated to a trade union; or

(b) any body or association the object or one of the objects of which is to control or influence conditions of employment in any trade union or profession; or

(c) any body or association the object or one of the objects of which is to control or influence the pay, pension or other conditions of the Force, other than any body or association which may be constituted and regulated pursuant to the provisions of these regulations.

Officers' Staff
Association

13. (1) Officers in the Force may establish an Association for the purpose of bringing to the notice and consideration of the competent authorities all matters affecting their welfare and efficiency, other than questions of discipline, transfers, individual promotions and other matters affecting individuals.

(2) The statute of the Civil Protection Staff Association is as set forth in the Second Schedule to these regulations. Any changes to the contents of the statute shall be subject to the approval of the Minister who shall ensure that they shall be consistent with those of a disciplined force.

(3) An Association established under this regulation shall be entirely independent of, and unassociated with, any body outside the department, but, subject to the approval of the Minister, it may be affiliated to an internationally recognised association in the field of civil protection.

(4) Every member of the Force and other professional or technical person employed full-time in the Department are entitled to be members of the Association established in terms of these regulations. Subject to the approval of the Minister, no other person who is not an employee of the Department as aforesaid shall be a member of the Association or represent in any capacity the said Association or its members.

FIRST SCHEDULE

(Regulation 9)

OFFENCES AGAINST DISCIPLINE BY MEMBERS OF THE ASSISTANCE AND RESCUE FORCE

1. *Disobedience to orders*, which offence is committed when a member of the Assistance and Rescue Force disobeys or, without reasonable cause, fails to carry out any lawful order whether in writing or not.

2. *Insubordination*, which offence is committed when a member of the Assistance and Rescue Force is insubordinate by word, act or demeanour.

3. *Abuse of authority*, which offence is committed when the conduct of a member of the Assistance and Rescue Force towards another such member or a member of the public is oppressive or abusive.

4. *Absence from duty*, which offence is committed when a member of the Assistance and Rescue Force -

(a) without reasonable cause is absent from duty or is late for any parade, drill or other attendance; or

(b) without reasonable cause leaves his place of duty.

5. *Neglect of duty*, which offence is committed when a member of the Assistance and Rescue Force -

(a) without reasonable cause fails to attend to or carry out his duty promptly and diligently; or

(b) by carelessness or neglect suffers any loss, damage or injury to occur to any person or property; or

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

(d) fails to make an entry, which it is his duty to make, in any book or document; or

(e) fails properly to account for, or to make a prompt and true return of, any money or property which comes into his possession as a result of his employment.

6. *Falsehood*, which offence is committed when a member of the Assistance and Rescue Force -

(a) knowingly or through wilful neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for fire and rescue services purposes; or

(b) has knowingly or through wilful neglect made any false, misleading or inaccurate statement in connection with his appointment as a member of the Assistance and Rescue Force.

7. *Misconduct in relation to official documents*, which offence is committed when a member of the Assistance and Rescue Force, without reasonable cause, destroys or mutilates any record or document made, kept or required for fire and rescue services purposes, or alters or erases or adds to any entry in such a record or document.

8. *Improper disclosure of information*, which offence is committed when a member of the Assistance and Rescue Force, without proper authority, communicates to any person information which he acquires in confidence as a member of the Force.

9. *Corrupt or improper practice*, which offence is committed when a member of the Assistance and Rescue Force improperly uses, or attempts so to use, his position as a member of the Force for his own private advantage or for the private advantage of some other person.

10. *Loss of, or damage to Government property*, which offence is committed when a member of the Assistance and Rescue Force -

(a) wilfully or negligently causes any waste or loss of, or damage to, any property of the Department of Civil Protection, or fails to take reasonable care thereof; or

(b) fails to report, as soon as is reasonably practicable, any loss of, or damage to, any property issued to, or used by, him or entrusted to his care.

11. *Unfit for duty*, which offence is committed when a member of the Assistance and Rescue Force renders himself unfit through drink or drugs or similar means for duties which he is or will be required to perform or which it is reasonable to foresee that he will have to perform.

12. *Criminal conduct*, which offence is committed when a member of the Assistance and Rescue Force has been found guilty by a court of law of a criminal offence which -

(a) occurs in connection with his duties as a member of the Force; or

(b) does not so occur but has a bearing on his suitability for his job; or

(c) is liable to bring the service into disrepute.

13. *Untidiness*, which offence is committed when a member of the Assistance and Rescue Force while on duty, or while off duty but wearing uniform in a public place, is without reasonable cause dirty or untidy in his person, clothing or personal equipment.

14. *Conduct prejudicial to discipline*, which offence is committed when a member of the Assistance and Rescue Force while on duty or in uniform acts in a manner which is, or is likely to be, prejudicial to the discipline of the Force.

15. *Conduct prejudicial to the reputation of the Force*, which offence is committed when a member of the Assistance and Rescue Force intentionally or recklessly and without reasonable cause acts in a manner which damages, or is likely to damage, the reputation of the Force.

SECOND SCHEDULE

(Regulation 13)

STATUTE OF THE CIVIL PROTECTION STAFF ASSOCIATION

Title of Association.

- 1. The Association shall be known as the "Civil Protection Staff Association".**

The aims and objectives of the Association shall be:

- (a) the improvement of the conditions and circumstances of employment and salary and generally the protection of the professional interests and rights of its members;**
- (b) to safeguard and improve the conditions of employment of members, and to promote their interests; to represent the interests of the members in any discussions with the official side in the Civil Protection Department;**
- (c) the cultivation and development of relations between colleague members, and ex-members of the Civil Protection Department;**
- (d) the enhancement of the welfare of members of the Department and their dependants, through such services as may be possible from time to time, including collective insurance policies;**
- (e) to afford advice and assistance to individual members in disciplinary proceedings;**
- (f) to establish and administer a fund or funds for the purpose of providing educational, cultural and social activities;**
- (g) the rendering of benefits and financial aid to all members of the Department and their dependants according to criteria which will be defined by all the members from time to time.**

Affiliation with bodies outside the Department of Civil Protection.

- 2. The Association shall be entirely independent of, and unassociated with any body outside the Department of Civil Protection, but subject to the approval of the Minister, it may be affiliated to an internationally recognised association in the field of Civil Protection.**

Membership of the Association.

3. Every member of the Assistance and Rescue Force and every full-time technical or professional employee of the Department of Civil Protection may be a member of the Association.

Executive Committee.

4. (1) There shall be constituted an Executive Committee comprising representatives of all grades in the Department of Civil Protection. The Committee shall be composed as follows:-

- (a) two representatives of the managerial, professional and technical grades;
- (b) two representatives of Station Officers grade;
- (c) four representatives of Leading Assistance and Rescue Officers grade;
- (d) seven representatives of Assistance and Rescue Officers grade.

(2) At its first meeting after the elections of the members, the Committee shall elect by simple majority the Chairman and Vice-Chairman from among its members. A vacancy in the membership of the Committee shall immediately occur on the election of the Chairman. The vacancy shall be filled by not later than the subsequent meeting of the Committee after the election of the Chairman by co-option from the grade in the service that the person appointed as Chairman had represented as member.

(3) At its first meeting after the elections of its members, the Committee shall appoint a secretary and treasurer from among its own members. The secretary and treasurer shall both be entitled to participate and vote in the Committee.

(4) The duration of the Committee shall be of two years from one election to the next. Vacancies in the Committee shall be filled by co-option from the grades represented by the vacating member by not later than the subsequent meeting of the Committee after the vacancy occurs.

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

(6) The Executive Committee may delegate a representative or more for the carrying out of all or part of such duties.

(7) The Executive Committee shall meet as often as it deems necessary in order to carry out its business efficiently, but not less than once every two months.

Subscription.

5. (1) A member's subscription shall be due and payable quarterly in advance, at the rate of Lm 5.

(2) The rate of subscription fee can only be raised with the approval of the Minister on the recommendation of the Executive Committee after it has consulted the members.

Rights and obligations of members.

6. (1) All members have the right to elect and be elected in the Committee of the Association.

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

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

(4) Every member of the Association shall be entitled to vote in the election of the Executive Committee.

(5) The Director of Civil Protection shall appoint an election board composed of one representative from each grade to organise and supervise the election of the members of the Association. Elections shall be held every two years. New elections for a Committee shall be held by not later than the one month from the expiration of the previous Committee's term of office. Elections of members shall be by secret ballot and shall be held over a two-day period on dates fixed by the Director. The election board will investigate any complaints of irregularities during elections and shall decide as to the validity of the complaints and give remedial directives where and when applicable. In such eventualities, the decisions of the election board shall be final.

(6) Members of the Executive Committee shall be elected on the principle of the highest or next higher number of votes obtained individually by each candidate. The candidate or candidates obtaining the most votes in each represented grade in terms of paragraph (1) of section 4 of this Statute shall be elected.

Decisions of the Executive Committee.

7. The decisions of the Executive Committee shall be by consensus. Where in the opinion of the Chairman a consensus is not possible, decisions shall be taken by a simple majority of votes cast by members of the Committee in favour or against. The Chairman shall not be entitled to vote, except as a casting vote in case of a tie. Quorum shall consist of half the elected members, including the Chairman. When there is no quorum at the fixed time of the meeting, the Chairman shall give an extension of half an hour after which those present shall form a quorum.

Accommodation of the Association.

8. The Director of Civil Protection shall make available free of charge reasonable accommodation as premises for the Association to carry out its functions and activities. The Director shall provide, also free of charge, such other assistance as is required for the proper function of the Association.

Use of the funds of the Association.

9. (1) The funds of the Association shall not, without the consent of the Minister responsible for Civil Protection, be used otherwise than for defraying expenses incurred in accordance with the provisions of this Statute.

(2) Association funds shall not be used -

(a) to support a political party, or to promote, directly or indirectly, a person's candidature, in a parliamentary, or local council election, or

(b) to contribute to the funds of a political party or to a trade union or any other body or organisation not being connected with the Department of Civil Protection or its welfare or carrying out charitable work for the welfare of others.

Auditors.

10. (1) The Executive Committee shall, in relation to the funds of the Association held by the Committee, keep accounts showing all moneys received or paid out and shall cause the accounts for each year to be audited by an independent auditor.

(2) The independent auditor shall be a person or a partnership holding the warrant of auditor under the Accountancy Profession Act, Cap. 281.

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

Dissolution.

11. (1) The Association may be dissolved with the consent of five-sixths of the members, at a General Conference, or after the membership falls below 30 per cent of the officers of all ranks.

(2) In the case of dissolution, any favourable balance in the funds shall be transferred to the Civil Protection Department, to be held until eventually another Association is formed with aims and objectives similar to those of the Civil Protection Staff Association.