

# **Police Act [Cap 105]**

## **LAWS OF THE REPUBLIC OF VANUATU CONSOLIDATED EDITION 2006**

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### **CHAPTER 105 POLICE**

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# **POLICE**

**To provide for the establishment, organisation, discipline, powers and duties of the Vanuatu Police Force and for matters incidental thereto.**

## **PART 1 – PRELIMINARY**

### **1. Interpretation**

In this Act, unless the context otherwise requires –

"Commission" means the Police Service Commission established under Section 9(1);

"Commissioner" means the Commissioner of Police appointed under section 10;

"Constable" means the lowest rank in the Force and includes a woman constable;

"Force" means the Vanuatu Police Force established by this Act;

"member" means any member of the Force regardless of rank;

"Minister" means the Minister for the time being responsible for the Force or any Minister acting on his behalf;

"overseas contingent" means any part of the Force engaged outside Vanuatu under paragraph 4(4)(a) or (b);

"senior officer" means any member of or above the rank of inspector;

"subordinate officer" means any member below the rank of inspector.

## **PART 2 – CONSTITUTION, FUNCTIONS, ORGANISATION AND ADMINISTRATION**

### **2. Establishment of the Vanuatu Police Force**

There is hereby established a police force called the Vanuatu Police Force.

### **3. Composition of the Force**

The Force shall consist of the Commissioner and such senior and subordinate officers as may from time to time be approved by the Minister.

### **4. Functions of the Force**

(1) It shall be an essential duty of the Force to maintain an unceasing vigilance for the prevention and suppression of crime.

(2) The Force shall be employed throughout Vanuatu and its territorial waters for –

- (a) the preservation of peace and the maintenance of order;
- (b) the protection of life and property;
- (c) the enforcement of laws;
- (d) the prevention and detection of offences and the production of offenders before the Courts; and
- (e) such other duties as may be expressly provided for by law.

(3) Members of the Force shall be entitled for the performance of their duties to carry arms which shall only be used on the instructions of the Commissioner or of a senior officer authorised by him and in accordance with the general directions of the Minister.

- (4) Members of the Force may be engaged outside Vanuatu with the approval of the Council of Ministers on the recommendation of the Prime Minister and the Minister of Foreign Affairs as –
- (a) a military force in operations involving hostilities or war; or
  - (b) a military, police or internal security force for operations involving peace-making, peace-keeping or truce and cease fire operations.

(5) The Prime Minister and the Minister of Foreign Affairs must consult with the Commissioner before making a recommendation.

## **5. Employment of the Force for defence or internal security**

- (1) Notwithstanding anything else contained in this Act the Prime Minister may, if he considers that there is a grave threat to the defence or the internal security of Vanuatu, direct that the whole or any part of the Force shall –
- (a) be employed as a military or internal security force; and
  - (b) comply with the orders of any military or other authority he may specify.

(2) Except so far as the Prime Minister may direct, any direction made under the provisions of subsection (1) shall not affect –

- (a) any powers of appointment, dismissal or disciplinary control of members conferred upon any person or authority; or
- (b) the command and superintendence of the Force vested in the Commissioner.

## **6. General powers of Commissioner**

- (1) The Commissioner shall have the command, superintendence and direction of the Force and, subject to the provisions of this Act and to the general directions of the Minister may –
- (a) make such appointments, promotions and reductions in rank in respect of all subordinate officers as he may consider fit; and

(b) make Force Orders for the general government of members in relation to their enlistment, discharge, training, arms, clothing, equipment and other appointments and particular services as well as their distribution and inspection and other such orders as he may deem expedient for preventing neglect and for promoting the efficiency and discipline of all members.

(2) Any act or thing which may be done, ordered or performed by the Commissioner, may with the authority of the Commissioner be done, ordered or performed by a senior officer.

## **7. Officer in charge of police**

(1) The command and control of any particular unit of the Force in any place shall be vested in such member as may be appointed by the Commissioner to be in charge thereof. Any member so appointed shall be an officer in charge of police for the purposes of this Act.

(2) An officer in charge of police shall be subordinate to and carry out the orders of the Commissioner in all matters connected with –

(a) the discharge of the general functions of the Force as provided by section 4; and

(b) the discipline, training, promotion and welfare of all members under his command.

(3) Every officer in charge of police shall be responsible for all public stores and moneys issued and delivered for the use of the unit of police under his command and for any other thing, money or valuable security coming into his possession by reason of his appointment and shall account for the same to the Commissioner or to any public officer authorised for that purpose.

(4) Every Officer in charge of police shall keep such books and records and shall render such returns as the Commissioner may from time to time direct.

## **PART 3 – APPOINTMENT, ENROLMENT, SERVICE AND DISCHARGE**

### *Appointments – General Provisions*

## **8. Members subject to public service terms and conditions**

Except where expressly provided for by this Act, members shall be subject to the same terms and conditions of service as may apply to members of the public service.

## **9. Establishment of the Police Service Commission**

(1) There shall be established a Police Service Commission.

(2) The Commission shall consist of a Chairman and four other members appointed by the President, acting on and in accordance with the advice of the Prime Minister after consultation with the Council of Ministers and shall be composed as follows –

(a) a person nominated by the Prime Minister, member;

(b) a person nominated by the Minister for the time being responsible for the Police Force, member;

(c) a person nominated by the Minister for the time being responsible for Justice, member;

(d) a person nominated by the Chief Justice, member; and

(e) a person nominated by the Public Service Commission, member.

(3) The Prime Minister shall, after consultation with the Council of Ministers, appoint the Chairman from amongst the members appointed under subsection (2).

(4) A person shall be disqualified for appointment as a member of the Commission –

(a) if he is a member of Parliament;

(b) if he is a member of the National Council of Chiefs;

(c) if he is a member of a Local Government Council;

(d) if he is a member of a Municipal Council;

(e) if he exercises a position of responsibility within a political party;

(f) if he is a member of the Force; or

(g) if he has been convicted of a criminal offence and was sentenced to a term of imprisonment, including a suspended sentence.

(5) A person shall cease to be a member of the Commission if circumstances arise that, if he were not a member, would disqualify him for appointment as such.

(6) Subject to subsection (7), the term of office of any member of the Commission, including the Chairman, shall be four years.

(7) A member of the Commission shall hold office for the period of his appointment unless he is removed from, or otherwise vacates, office earlier.

(8) A member of the Commission may resign his office by giving one month notice in writing of his intention to resign, to the Prime Minister.

(9) The Chairman of the Commission shall be the chief executive officer of the Commission on a full time basis.

(10) The members of the Commission shall, from amongst their number, elect the Vice-Chairman of the Commission who in the absence of the Chairman shall preside at the meetings of the Commission.

(11) Subject to this Act, the Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(12) The quorum for any meeting of the Commission shall be three members one of whom shall be the Chairman or in his absence the Vice-Chairman.

(13) The Prime Minister may, by Order, provide for the remuneration and other terms and conditions of the members of the Commission, including the Chairman, as he considers necessary.

## **10. Appointments**

(1) The Commissioner of Police shall be appointed by the President acting on the advice of the Commission, for such period as the Commission shall advise.

(2) Other senior officers shall be appointed by the Commission, acting on the recommendation of the Commissioner.

(3) Subordinate officers and constables shall be appointed by the Commissioner.

## **11. Qualifications for appointment**

(1) Except on the authority of the Commission, acting with the prior approval in writing of the Minister, every candidate for appointment to the Force shall be a citizen of Vanuatu.

(2) The Minister may after consultation with the Council of Ministers prescribe such further qualifications for appointment as he may consider to be in the public interest.

## **12. Form of application**

A candidate for appointment to the Force shall make application in writing in such form as the Commissioner may determine.

## **13. False statements to obtain appointment**

(1) Any person who makes any statement, knowing the same to be false, for the purpose of obtaining for himself or for any other person any appointment in the Force shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(2) A person who is found to be appointed as the result of any false statement shall be liable to be dismissed from his appointment whether or not he is convicted of an offence under this section.

### ***Appointment of Probationary Constables***

## **14. Appointment on probation**

(1) A successful candidate shall be appointed as probationary constable for a period of 2 years by a letter of appointment signed by the Commissioner.

(2) The Commissioner may at any time discharge a probationary constable if he considers that such constable is unlikely to become an efficient member of the Force.

## **15. Enrolment register**

(1) The name of every probationary constable shall be entered in an enrolment register in the chronological order of appointment.

(2) Every entry under subsection (1) shall include the enrolment number of the member, the date of enrolment, his date of birth and the date when he is taken off the strength of the Force.

## **16. Recruit training**

(1) Every probationary constable shall be required to complete a period of training in such form and of such duration as shall be determined by the Commissioner.

(2) No probationary constable shall be invested with the powers and duties of his office in accordance with the provisions of this or any other Act for the time being in force until he has successfully completed the period of training provided for in subsection (1) and has made the declaration provided for in section 17.

## **17. Declaration**

Upon completion of the training provided for in section 16(1) a probationary constable shall make and sign before a senior officer a declaration in the following form –

"I swear to obey the officers placed in command over me in all matters concerning the service to which I am appointed and, in the performance of my duties, only to use the powers given to me for the maintenance of public order and the enforcement of the law".

## **18. Police identity card**

A police identity card in the form in Schedule 1 signed by the Commissioner or a senior officer so authorised by the Commissioner shall be issued to every member at the time he is sworn in and shall be evidence of the appointment of such member.

## **19. Re-engagement for continuous service**

(1) Upon satisfactory completion of the probationary period provided for in section 14, a probationary constable shall be re-engaged for continuous service.

(2) If for any good reason, the Commissioner decides to refuse to accept a probationary constable for re-engagement for continuous service, he shall inform the constable of his refusal not less than 1 calendar month before the expiry of the probationary period.

### *Appointment of Subordinate and Senior Officers*

## **20. Appointment of officers from within the Force**

Subject to the provisions of section 21, appointments of subordinate and senior officers shall be made by promotions from within the Force having regard to –

- (a) the individual merit of each candidate based on his ability, efficiency, powers of leadership, conduct and character; and
- (b) his length of service and seniority in his rank.

## **21. Appointment of officers from outside the Force**

(1) The Commission may exceptionally and on the recommendation of the Commissioner, appoint a person, not being a member as a subordinate or senior officer if such person possesses special professional or technical qualifications that will be of benefit to the Force.

(2) Any person appointed as a subordinate or senior officer under subsection (1) shall be enrolled and sworn in accordance with this Part.

## **22. General principles of promotion**

The essential object of promotion is the creation of a cadre of senior and subordinate officers. Promotions shall be made according to the needs of the Force and the ability of members promoted and not only as a reward for service.

### *Service Matters*

## **23. Postings**

(1) In this section the word, "post" means a particular police function and does not imply a police rank.

(2) Subject to the provisions of section 10, a member shall serve in such post and in such place within Vanuatu as the Commissioner may, in the interests of the Force, decide.

## **24. Pay and allowances**

(1) Members shall be paid such salaries monthly in arrears and such allowances as may from

time to time be approved by the Prime Minister having regard to rank and service.

(2) No person may retain all or any part of the pay due to a member except as provided for by law.

## **25. Official quarters**

(1) Every member shall be required to live in such official quarters as may be allocated to him by the Commissioner.

(2) No business or other commercial activity may be conducted in or from any official quarter.

## **26. Uniforms**

(1) Every member shall, at the time of his appointment on probation and thereafter as necessary be issued free of charge with such items of uniform and equipment as may from time to time be determined. All such items shall be on the personal charge of the member who shall be responsible for their safe custody and proper upkeep.

(2) Except when specifically authorised by the Commissioner, members shall wear their uniform in the exercise of their duties.

(3) The Minister shall prescribe the uniform to be worn by members, the issue thereof and the issuing of equipment to them.

## ***Resignation, Discharge and Dismissal***

### **27. Resignation from the Force**

(1) Any member who wishes to resign from his appointment shall give 3 months notice in writing of his intention to do so unless such period is reduced or waived by the Commissioner for subordinate officers and by the Commission for senior officers.

Resignation shall not in itself be a bar to subsequent re-appointment.

### **28. Compulsory retirement of police officers**

(1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, for the purposes of ensuring the renewal of holders of public offices within the Force, the Commissioner in the case of a subordinate officer or the Police Service Commission acting on the recommendation of the Commissioner, in the case of a senior officer, may compulsorily retire any member from the Force.

(2) Notice of compulsory retirement shall be given by or on behalf of the Commissioner or Commission in writing to a member to whom subsection (1) applies.

(3) The notice referred to in subsection (2) shall state the day on which the member to whom it is given shall be retired and shall be not less than 3 months after the day on which the notice is given to the member.

## **29. Severance payment**

A member retired in accordance with section 28 shall be entitled to receive from the Government a severance payment calculated at the rate of 1 month of the annual salary payable to the member immediately before the day of retirement for each year served with the Vanuatu Government since 30 July 1980 and pro-rata for each uncompleted year.

## **30. Prolongation of service in case of war, etc.**

Any member whose period of service expires during a state of war, insurrection or hostilities may be retained and his service prolonged for such further period not exceeding 6 months after the cessation of such state of war, insurrection or hostilities as the Minister may direct.

## **31. Discharge from the Force**

(1) At any time a member may be discharged by the Commissioner, in the case of a subordinate officer or by the Commission acting on the recommendation of the Commissioner, in the case of a senior officer –

- (a) if he is certified by a Government medical board to be mentally or physically unfit for further service;
- (b) on reduction of establishment or on re-organization of the Force to promote efficiency; or
- (c) if, being a probationary constable the Commissioner considers that he is unlikely to become an efficient member of the Force.

(2) A discharge under the provisions of subsection (1) of any subordinate officer who has completed 2 years service in the Force shall be subject to confirmation by the Commission.

(3) Every member discharged under the provisions of subsection (1) shall be given not less than 3 months notice of the intention to discharge him from the Force.

(4) Where –

- (a) a member is discharged in accordance with subsection (1)(b); or
- (b) the Minister is satisfied that a member discharged in accordance with subsection (1)(a) has been permanently injured –
  - (i) in the actual discharge of his duty; and
  - (ii) without his own default; and
  - (iii) by some injury specifically attributable to the nature of his duty,

the Minister may after consultation with the Minister responsible for finance grant that member such gratuity as he may consider fit in addition to any pension to which he may be entitled.

(5) A gratuity awarded in accordance with subsection (4) shall not exceed half a month's salary for every period of 12 months service which shall be calculated on the amount of salary paid immediately before discharge.

### **32. Inquiry in case of member discharged as mentally or physically unfit**

Whenever a member is discharged because he has been certified by a Government medical board to be mentally or physically unfit for further service, the Commissioner shall cause an inquiry to be made to determine if there was any connection between the member's duty and his unfitness and shall submit the report of such inquiry to the Minister.

### **32A. Compensation, etc., for injury, death, etc.**

(1) If any member is temporarily incapacitated by reason of any wound or injury or sickness contracted by him in the performance of any duty or training by him under this Act and such wound or injury is received or such sickness is contracted in the actual discharge of his duty as a member and without his own default, he shall be eligible to receive free medical treatment therefore and full pay for the period of such incapacity.

(2) If any member receives any permanent disablement attributable to any wound or injury received or sickness contracted by him in the circumstances referred to in subsection (1), the Minister may, after consultation with the Minister responsible for finance, pay gratuity to such member at such rates as shall be prescribed.

(3) If any member is killed or dies as a result of any wound or injury received or sickness contracted by him in the circumstances referred to in subsection (1), the Minister may, after consultation with the Minister responsible for finance, grant to the dependents of such member such pension or allowance at such rates as shall be prescribed.

(4) If the property of any member is damaged during the performance of any duty or training by him under this Act, such property being damaged without his default and on account or circumstances specifically attributable to the nature of his duties as a member, the Minister may, after consultation with the Minister responsible for finance, award such member such compensation at such rates as shall be prescribed.

(5) The Minister shall not award to any member or to the dependants of any member any gratuity, allowance, pension or compensation under subsections (2), (3) or (4) if such member or such dependents is or are eligible to receive a gratuity, allowance, pension or compensation in respect of the same disablement, death or damage under any other law in force at the time.

(6) A gratuity, pension, allowance or compensation paid under this section shall not be assignable or transferable nor liable to be attached, sequestered or levied upon except for the purpose of satisfying –

- (a) a debt due to the Government; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the person to whom the pension, gratuity or other allowance has been granted.

### **33. Dismissal from the Force**

- (1) Any member may be dismissed from the Force in accordance with the provisions of this Act if he has been –
  - (a) found to have committed an offence against discipline; or
  - (b) convicted of an offence against any written law.
- (2) Such dismissal shall take effect from the date of such finding or conviction or from such later date as the Commissioner or Commission, as the case may be, decides.
- (3) A member who has been dismissed from the Force under the provisions of this section may not be re-appointed.

### **34. Arms and equipment to be delivered up**

Any member who, having ceased to be a member does not without undue delay deliver up to the person appointed by the Commissioner for that purpose, or to the officer in charge of police at the place at which he was last stationed, all arms, ammunition, equipment, clothing and appointments whatsoever which have been supplied to him and are the property of the Government shall be guilty of an offence and liable to a fine not exceeding VT 20,000 or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

## **PART 3A – OVERSEAS CONTINGENTS**

### **34A. International agreements**

- (1) Prior to the posting of an overseas contingent, the Minister must, wherever possible, enter into an agreement with the country or countries affected or the relevant international body (if any).
- (2) The agreement must set out –
  - (a) the command, control and administrative arrangements necessary for the good order, discipline and maintenance of the overseas contingent; and
  - (b) the level of cooperation, compliance and consultation required by the overseas contingent with the relevant international body, or the military, police and civilian authorities of the country or countries affected.

(3) Despite any agreement entered into, the overseas contingent remains at all times subject to the Constitution, this Act and the other laws of Vanuatu.

(4) Any agreement dealing with an overseas contingent that is in force on the commencement of this section is taken to be an agreement entered into under this section.

#### **34B. Appointment of Contingent Commander**

(1) The Commissioner must, in writing, appoint a member of an overseas contingent to be the Contingent Commander.

(2) To avoid doubt, the Contingent Commander as a member of the Force remains subject to the provisions of this Act.

#### **34C. Minister's directions**

(1) Subject to subsection (2), the Minister may, in writing, direct the Commissioner to report to the Minister on matters of national interest.

(2) The Minister must not make a direction that concerns the operations of an overseas contingent.

#### **34D. Duties of contingent members**

(1) The Commissioner may, in writing, direct any member of an overseas contingent to comply with any order, regulation or instruction issued by the relevant authority of a country involved in the same operation as the overseas contingent. The direction may be given to an individual or by general order.

(2) It is an offence against discipline for a person to fail to comply with a direction given under subsection (1) (see section 58 for disciplinary procedures).

#### **34E. Extension of service**

After consultation with the Minister, the Commissioner may, in writing, direct that the period of service of a member of an overseas contingent be extended for a period not exceeding one year.

#### **34F. Appointment of special constables**

(1) The Commissioner may, with the written approval of the Minister, appoint a person to be a special constable in an overseas contingent for a specified period, subject to the budget allocated for that purpose.

(2) Before being posted to an overseas contingent, a special constable must complete a training program approved by the Commissioner.

(3) A special constable is to be paid such salaries, allowances and other benefits as are applicable to a constable.

#### **34G. Recognition of service**

The President may confer honors, awards or service medals on any member of an overseas contingent who has rendered long, brave or conspicuous service.

### **PART 4 – POWERS AND DUTIES**

#### **35. General powers and duties of members of the Force**

(1) Every member shall exercise such powers and perform such duties as are by law conferred or imposed upon him, and shall obey all lawful directions in respect of the execution of his office which he may from time to time receive from his superiors in the Force.

(2) Every member shall be considered to be on duty at all times and may at any time be detailed for duty in any part of Vanuatu.

(3) It shall be the duty of every member to promptly obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice and to apprehend all persons that he is legally authorised to apprehend and for whose apprehension sufficient ground exists.

#### **36. Use of reasonable force**

Any member of the Force may use all such force as may be reasonably necessary in order to prevent crime or to effect or assist in effecting a lawful arrest.

#### **37. Power to take photographs, fingerprints, etc.**

(1) In this section, the word, "description" shall be construed as including a reference to photographs, measurements, fingerprints and footprints.

(2) Any member of the Force may cause to be taken for use and record in the registry of the Force, the description of any person –

(a) who is in lawful custody for any offence, or

(b) who has appeared before a court in answer to a summons for any offence punishable by imprisonment and been convicted.

(3) On the acquittal of any person whose description has been taken under the provisions of this section such description shall be destroyed.

(4) Any person –

- (a) who is in lawful custody for any offence; or
- (b) who has appeared before a court in answer to a summons for any offence punishable by imprisonment;

and refuses to allow his description to be taken shall be guilty of an offence and liable on conviction to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment, and after conviction the court may order that reasonable force may be used by a member to take such description.

### **38. Power to inspect licences**

(1) It shall be lawful for any member to stop and detain any person whom he sees doing any act for which a licence or permit is required under the provisions of any law for the time being in force and to require such person to produce his licence or permit.

(2) Any person who fails to produce such licence or permit when called upon to do so by a member may be arrested without a warrant unless he gives his name and address or otherwise satisfies the member that he will duly answer any summons or other proceedings which may be taken against him.

### **39. Power to lay informations**

It shall be lawful for any member to lay any information before a court of competent jurisdiction and apply for a summons, warrant, search warrant or such other legal process as may by law issue against any person.

### **40. Non-liability for act done in good faith**

No suit or other legal proceedings for damages shall be instituted in any court of law against the Minister or the Commissioner or any other member of the Force or any other person for or on account of or in respect of any act, matter or thing done or purported to be done or omitted to be done, in good faith, in the performance or exercise of any duty or power imposed or conferred by or under this Act; and the provisions of this section shall extend to the protection from liability as aforesaid of any person deputed by delegation under this Act or under any other law for the time being in force to perform or exercise any such duty or power aforesaid.

### **41. Power to erect barriers etc.**

(1) It shall be lawful for any senior officer, if he considers it necessary for the maintenance and preservation of law and order, the prevention or detection of crime, the apprehension of offenders or the protection of life or property to erect or place barriers in or across any road or street or in any other public place in such manner as he may consider fit.

(2) Any member may take all such reasonable steps as he considers necessary to prevent any person or vehicle from passing any barrier erected or placed under the provisions of subsection (1) and any such person or the driver of any such vehicle, who fails to comply with any reasonable signal made by a member under the provisions of this subsection, shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

#### **42. Duty of Force to keep order in public places**

(1) It shall be the duty of the Force –

- (a) to regulate and control traffic;
- (b) to divert all or any particular kind of traffic, when it is in the public interest to do so;
- (c) to keep order on public roads, streets, thoroughfares and landing places, and at other places of public resort or places to which the public have access; and
- (d) to prevent obstructions on the occasion of assemblies and processions on the public roads and streets, and in any case when any road, street, thoroughfare or landing place may be thronged or may be liable to be obstructed.

(2) Every person who disobeys a lawful order given to him by any member or who otherwise obstructs a member in the performance of his duty shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(3) Any person who contravenes subsection (2) may be arrested without a warrant and detained in accordance with the law unless he gives his name and address and otherwise satisfies the member that he will duly answer any summons or other proceedings which may be taken against him.

#### **43. Person furnishing false name and address**

(1) Any person who having been asked by a member acting in the execution of his duty, for his name and address, refuses to do so or gives to such member a false name or address shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(2) Any person who contravenes subsection (1) may be arrested without a warrant and detained in accordance with the law.

#### **44. Disposal of unclaimed property**

It shall be the duty of every member to take charge of all unclaimed property, and such unclaimed property shall then be disposed of or otherwise dealt with in accordance with any order made under this Act.

#### **45. Power to enter premises, vehicles, boats, etc. in case of fire or other threat to life or property**

(1) Whenever any member has reasonable grounds for believing that any building is on fire or that there is any other serious threat to life or property therein, he may enter and if necessary break into such building or any other building or land adjoining or near thereto, without the consent of the owner or occupier thereof and may do all such acts and things as he may consider necessary for extinguishing the fire or such other threat or for protecting the building from the same or for rescuing any person or property therein.

(2) A member may likewise enter or board or break into any motor vehicle, boat or aircraft which he has reasonable grounds for believing to be on fire or to be or likely to be a serious threat to life or property or contain something which may pose such a threat and to enter any land or other property without the consent of the owner or occupier for the purpose of entering, boarding or breaking into such motor vehicle, boat or aircraft and extinguishing a fire or dealing with any other threat to life or property.

### **PART 5 – DISCIPLINE**

#### *Offences by Members Tried by the Courts*

#### **46. Mutiny**

Any member who –

- (a) takes part in any mutiny or intended mutiny amongst the Force; or
- (b) knowing of any mutiny amongst the Force does not use his utmost endeavours to suppress such mutiny; or
- (c) knowing of any intended mutiny amongst the Force does not without delay give information thereof to his superior officer;

shall be guilty of an offence and liable on conviction to a term of imprisonment not exceeding 5 years.

#### **47. Failing to suppress riot**

Any member who, being present at any assembly tending to riot, does not use his utmost endeavours to suppress such assembly shall be guilty of an offence and liable on conviction to a term of imprisonment not exceeding 3 years.

#### **48. Desertion**

- (1) Any member who –

- (a) deserts from the Force; or
- (b) persuades, procures, assists or attempts to persuade, procure or assist any member of the Force to desert; or
- (c) knowing that any member has deserted or intends to desert does not without delay give information thereof to his superior officer;

shall be guilty of an offence and liable on conviction to a term of imprisonment not exceeding 3 years.

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

#### **49. Power of arrest without warrant**

A member who is reasonably suspected of committing any of the offences prescribed by section 46, 47 or 48 may be arrested without warrant and detained in accordance with the law.

#### *Disciplinary Offences by Members of the Force*

#### **50. Participation in politics**

(1) It shall be an offence against discipline for any member to –

- (a) speak, broadcast or ask questions in public on any political matter other than in the course of his duties;
- (b) communicate with the press other than in the course of his duties or publish any book, article or pamphlet on any political matter;
- (c) canvas or collect funds in support of any political candidate, body or cause;
- (d) propose, sponsor or support in any public way a candidate for election to any public office;
- (e) hold any post in or otherwise take part in the management of any political organisation; or
- (f) take any part in any other way in political activities.

(2) If any question arises as to whether any particular matter is political for the purposes of this section, such question shall be decided upon by the Commission at the request of the Commissioner and its decision shall be final.

(3) Nothing in this section shall be construed as placing any restraint upon the right of any member to exercise his right to vote in any national or local election.

#### **51. Other employment or office**

It shall be an offence against discipline for any member to engage in any employment or office other than in accordance with his duties.

## **52. Membership of trade union or allied body**

(1) It shall be an offence against discipline for any member to be or to become a member of any trade union or body or association affiliated to a trade union.

(2) If any question arises as to whether any body is a trade union, body or association to which this section applies, the question shall be decided upon by the Commission at the request of the Commissioner and its decision shall be final.

(3) For the purpose of enabling members to bring to the notice of Government any matter affecting their welfare and efficiency, other than questions of discipline or promotion, the Minister may, if he thinks fit, make rules for the establishment and regulation of 1 or more police associations and nothing in this section shall prohibit a member of the Force from joining and being a member of an association so established.

## **53. Strikes by members etc.**

(1) It shall be an offence against discipline for a member to take part in a strike or other associated action intended or calculated to –

(a) affect the pay, pensions or other conditions of service; or

(b) obstruct or otherwise influence the lawful exercise of any of the functions of the Force as prescribed by section 4.

(2) Nothing in this section shall prevent the presentation to the Commissioner of any petition on a matter of welfare or efficiency by a police association under the provisions of section 52(3).

## **54. Accepting gifts**

It shall be an offence against discipline for any member to accept any gift of money or moneys-worth offered as payment for any service rendered or promised.

## **55. Loss or damage to arms and accoutrements**

It shall be an offence against discipline for any member to pawn, sell, lose by neglect, make away with, wilfully damage or misuse any arms, ammunition, accoutrement, uniform or other appointment supplied to him or any other government property committed to his charge and such member may, upon conviction and in addition to or in lieu of any other punishment, be ordered to make good the amount of such loss or damage and such amount may be recovered by stoppage from his pay.

## **56. Absence from duty**

It shall be an offence against discipline for any member to absent himself from duty or his place of duty without reasonable cause or excuse and a member found to have committed such offence shall in addition to any other punishment, forfeit his pay for the period when he was so absent.

## **57. Other offences against discipline**

In addition to the offences against discipline provided for by this Act, the Minister may prescribe what other acts and omissions by members of the Force shall constitute offences against discipline.

### *Disciplinary Proceedings Against Subordinate Officers*

## **58. Disciplinary proceedings against subordinate officers**

A subordinate officer who commits any offence against discipline provided for by this Act or by any regulations made hereunder shall be dealt with and punished in accordance with sections 59 to 65.

## **59. Disciplinary powers of senior officers**

(1) A senior officer may inquire into the truth of a charge of an offence against discipline alleged to have been committed by a subordinate officer and, if he finds that the charge is proved, may impose on the defaulter one of the following punishments –

- a) a fine not exceeding 8 days pay;
- b) confinement to barracks for a period not exceeding 14 days with or without extra duties not exceeding 2 hours daily; or
- c) reprimand.

(2) The punishments prescribed by subsection (1) and by section 62 are sufficient in themselves and only 1 such punishment may be awarded for each offence against discipline.

## **60. Rights of defaulter**

A defaulter shall not be found to have committed an offence against discipline under the provisions of section 59 unless the charge has been read to him, and the hearings made in his presence and he has been given sufficient opportunity to cross examine the witnesses called against him, to give evidence or make a statement himself and to call witnesses on his behalf.

## **61. Remission of records to Commissioner for sentence**

In any case where a senior officer finds that the charge of an offence against discipline has been proved but considers that the circumstances of the case merit a more severe punishment than he is empowered to impose under the provisions of section 59 he shall forward the record of his inquiry to the Commissioner for his decision in accordance with section 62.

## **62. Special disciplinary powers of the Commissioner**

(1) The Commissioner may, when a record of an inquiry has been forwarded to him in accordance with section 61 impose any of the punishments prescribed by that section or any of the following punishments –

- a) dismissal from the Force; or
- b) reduction in rank; or
- c) loss of seniority; or
- d) a fine not exceeding 15 days pay.

(2) The Commissioner may in respect of any findings made by a senior officer under the provisions of section 59(1) whether or not he has received an appeal –

- (a) confirm, vary or quash any finding or punishment imposed as the result of such inquiry; or
- (b) order the holding of a fresh inquiry by a senior officer other than the officer who held the original inquiry.

(3) The Commissioner shall not increase any punishment imposed at the conclusion of the original inquiry without giving the defaulter the opportunity of being heard.

### **63. Appeals by subordinate officers**

(1) A subordinate officer who has been found to have committed an offence against discipline by a senior officer under section 59(1) may, within 7 days of such finding, appeal to the Commissioner against the finding or the punishment imposed or both such finding and punishment.

(2) A subordinate officer who has appealed to the Commissioner under the provisions of subsection (1) and who is dissatisfied with the decision of the Commissioner may, within 7 days of being notified of such decision appeal to the Commission which may confirm, vary or quash such decision. The decision of the Commission shall be final.

(3) Neither the Commissioner nor the Commission shall increase any punishment on appeal without giving the defaulter an opportunity of being heard.

### **64. Interdiction from duty of subordinate officers**

(1) The Commissioner may at any time interdict from duty a subordinate officer pending –

- (a) an inquiry under section 59(1) into any disciplinary offence of which he is charged; or
- (b) a trial or inquiry into any offence under this or any other Act for the time being in force of which he is charged before a Court.

(2) A subordinate officer who has been interdicted shall, for the period of such interdiction, cease to exercise the powers, privileges and benefits of his office but shall continue subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been interdicted.

(3) A subordinate officer who has been interdicted shall receive such proportion of his pay not being less than half as the Commissioner may decide. Upon termination of the period of interdiction, such outstanding proportion shall be –

- (a) paid in full to the member if he is found not to have committed the offence for which he was interdicted, or any other offence arising out of the same set of facts; or
- (b) paid in full or part to the member or otherwise disposed of at the discretion of the Commission if such member was found to have committed the offence for which he was interdicted or any other offence arising out of the same set of facts.

## **65. Dismissal and reduction in rank of subordinate officers following court conviction**

(1) The Commissioner may reduce in rank or dismiss from the Force any subordinate officer who has been convicted by a court of any offence under this or any other Act, unless such member has successfully appealed from such finding.

(2) A subordinate officer may appeal against a reduction in rank or dismissal in the manner prescribed by section 63(2).

### *Disciplinary Proceedings against Senior Officers*

## **66. Disciplinary proceedings against senior officers**

A senior officer who commits an offence against discipline prescribed by this Act or by any regulations made hereunder shall be dealt with and punished in accordance with sections 67 to 71.

## **67. Disciplinary powers of the Commission**

(1) A charge of an offence against discipline alleged to have been committed by a senior officer shall be reported by the Commissioner without unnecessary delay to the Commission which shall inquire into the truth of the charge.

(2) The Commission, if it finds the charge proved, may impose on the defaulter 1 of the following punishments –

- (a) dismissal from the Force;
- (b) reduction in rank;
- (c) loss of seniority;
- (d) a fine not exceeding 15 days; or
- (e) a reprimand.

(3) The punishments prescribed by subsection (2) are sufficient in themselves and only 1 such punishment may be awarded for each offence against discipline.

## **68. Rights of defaulter**

A senior officer charged with an offence against discipline under the provisions of section 67 shall have the rights prescribed by section 60.

## **69. Appeals by senior officers**

(1) A senior officer who has been found to have committed an offence against discipline in accordance with the provisions of section 67 may, within 7 days of such conviction, appeal to the Minister against the conviction or the punishment imposed or both conviction and punishment and the Minister shall confirm, vary or quash the conviction or punishment but shall not increase any punishment on appeal without giving the defaulter an opportunity of being heard.

## **70. Interdiction from duty of senior officers**

(1) The Minister may, on the recommendation of the Commissioner and at any time, interdict from duty any senior officer pending –

- (a) an inquiry under section 67(1) into any disciplinary offence of which he is charged; or
- (b) a trial or inquiry into any offence under this or any other Act for the time being in force of which he is charged before a court.

(2) A senior officer who is interdicted shall, for the period of such interdiction, cease to exercise the powers, privileges and benefits of his office but shall continue subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been interdicted.

(3) A senior officer who is interdicted shall receive such proportion of his pay not being less than half as the Minister may decide. Upon termination of the interdiction, such outstanding proportion shall be –

- (a) paid in full to the member if he is found not to have committed the offence for which he was interdicted, or any other offence arising out of the same set of facts; or
- (b) paid in full or part to the member or otherwise disposed of at the discretion of the Minister if such member was found to have committed the offence for which he was interdicted or any other offence arising out of the same set of facts.

## **71. Dismissal and reduction in rank of senior officers following court conviction**

(1) The Commission may, on the recommendation of the Commissioner, reduce in rank or dismiss from the Force any senior officer who has been convicted by a court of any offence under this or any other Act, unless such member has successfully appealed from such conviction.

(2) A senior officer may appeal against a reduction in rank or dismissal in the manner provided for in section 69.

### *General Provisions in Respect of Disciplinary Proceedings*

#### **72. Power of arrest and confinement**

(1) In this section, the word "offence" shall mean any offence against discipline as well as any offence triable by a court.

(2) Any member may arrest without warrant any other member not being of his own or higher rank who is accused of any offence under the provisions of this Act.

(3) Any member effecting an arrest under this section shall immediately bring the accused person before a senior officer or, in the absence of such officer, before the most senior member readily accessible who shall cause the case to be heard without delay.

(4) Every member arrested for any offence under this Act may be confined to his quarters or in any building set apart as a guard room or cell.

#### 73. Summary admonishment and reprimand

Notwithstanding anything to the contrary contained in this Act, the Commissioner may summarily administer an admonishment or reprimand to any member in the case of minor misconduct.

#### **74. Recovery of fines**

(1) All fines imposed on a member in respect of offences against discipline under the provisions of this Act may be recovered by stoppage from his pay.

(2) The amount of stoppage in respect of any fine or for any other cause authorised by the provisions of this Act shall be in the discretion of the officer by whom the fine was imposed but shall in no case exceed one-half of the member's monthly pay; and whenever more than one order of stoppage is in force against the same member so much only of his pay shall be stopped as shall leave him at least one-half of his monthly pay.

#### **75. Establishment of Police Fund**

(1) All fines imposed under the provisions of this Act for any offence against discipline shall be paid to the Government and shall be placed to the credit of a fund to be called the "Police Fund".

(2) Payment shall not be made from the Police Fund except on the authority of the Commissioner.

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

- (a) assistance to the wives or families of deceased members below the rank of inspector or to any such members discharged from the Force as being medically unfit for further service;
- (b) contribution towards prizes to be given at athletic meetings, assault at arms and similar events organised by or for the benefit of the Force;
- (c) purchase of ammunition for the encouragement of range practice among members;
- (d) payments to members below the rank of inspector as rewards for meritorious acts of service in the execution of duty; if such payments are not met from public funds;
- (e) expenditure for the benefit and advancement of authorised recreation and sport and other branches of police activity organised within the Force;
- (f) any other purpose which the Commissioner considers to be for the general welfare of the members of the Force.

## **PART 6 – GENERAL OFFENCES**

### **76. Unlawful possession of articles supplied to members of the Force**

Any person not being a member who –

- (a) is found in possession of any article whatsoever which has been supplied to any member for the execution of his duty, and who fails to account satisfactorily for the possession thereof; or
- (b) without due authority purchases or receives any such article from any member; or
- (c) aids or abets any member to sell or dispose of any such article,

shall be guilty of an offence and liable to a fine not exceeding VT 20,000 or to imprisonment not exceeding 1 year or to both such fine and imprisonment.

### **77. Duty to assist police**

(1) It shall be lawful for any member to call upon any person to assist him if, whilst acting in the execution of his duty, he is assaulted or resisted or in danger of being assaulted or resisted.

(2) Any person who assists any member in accordance with the provisions of subsection (1) shall be considered to have the rights and protection afforded to a member under the provisions of this Act or any other law for the time being in force.

(3) Any person, who is called upon to assist a member under the provisions of subsection (1) and who, without reasonable excuse refuses or neglects to render assistance to the best of his ability, shall be guilty of an offence and liable on conviction to a fine not exceeding VT 10,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

## **78. Causing disaffection amongst members**

Any person who causes or attempts to cause or does any act calculated to cause disaffection amongst members of the Force or induces or attempts to induce or does any act calculated to induce any member to withhold his service or to commit any breach of discipline shall be guilty of an offence and liable to imprisonment for a period not exceeding 2 years.

## **79. Disorderly conduct in police station etc.**

Any person who, in any police station, police office or cell, or in any part of a police compound to which the public have access, is guilty of any riotous, indecent, disorderly or insulting behaviour shall be guilty of an offence and liable to a fine not exceeding VT 10,000 or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

## **PART 7 – MISCELLANEOUS**

### **80. Proof of previous convictions**

- (1) In this section, any reference to fingerprints shall be construed as including a reference to palmprints.
- (2) In any inquiry, trial or other proceedings under any law for the time being in force, a previous conviction of an offence may be proved, in addition to any other mode provided by any law for the time being in force –
  - (a) by an extract certified under the hand of the officer having the custody of the records of the court in which such conviction was imposed, to be a true copy of the sentence or order; or
  - (b) by a certificate signed by the officer in charge of the prison in which the punishment or any part thereof was inflicted; or
  - (c) by production of the warrant of commitment under which the punishment was suffered:  
Provided that, in each of the cases set out in the preceding paragraphs, evidence is also produced to identify the accused person with the person so convicted; or
  - (d) by a certificate in the form prescribed in Schedule 2 hereto, given under the hand of a member appointed by the Minister in that behalf who shall have compared the fingerprints of a person previously convicted and such certificate shall be prime facie evidence of all the facts therein set forth provided that it is produced by the person who took the fingerprint of the accused.

### **81. Prisons**

Each officer in charge of police in a district shall be the prison officer responsible for the prisons in that district for the purposes of the Prisons (Administration) Act, Cap. 20 and may charge

members under his command with prison duties as wardens for the purposes of that Act.

## **82. Regulations**

The Minister may by Order make such rules and regulations as may seem to him necessary for the good order and government of the Force and for carrying into effect any of the purposes or provisions of this Act and, without derogation from the generality of the foregoing, for any of the following purposes –

- (a) the conditions of service of the Force and the various grades, ranks and appointments therein;
- (b) the establishment of pension and provident funds for members and their dependents;
- (c) the granting of gratuities in accordance with section 31(4);
- (ca) the rates of and eligibility of members and other persons to compensation, pension or gratuity under section 32A;
- (d) the duties to be performed by members, and where necessary, the fees to be charged for special duties performed and for their guidance in the discharge of such duties;
- (e) the pay, retirement benefits and allowances of members;
- (f) the description and issue of arms, ammunition, accoutrements, uniforms and necessaries to be supplied under this Act;
- (g) the disposal of any unclaimed property;
- (h) the discipline of members;
- (ha) the pay, allowances, benefits and compensation of members of overseas contingents;
- (hb) the discipline of members of overseas contingents; and
- (i) all other matters which are by this Act required to be provided or prescribed.

## **SCHEDULE 1**

(Section 18)

### **POLICE IDENTITY CARD**

#### **POLICE**

This is to certify that Il est certifié que.....  
is a member of the Vanuatu Police Force  
est un membre du corps de Police de Vanuatu.

.....  
Commissioner/ Commandant

Date.....  
Holder/Titulaire

## **SCHEDULE 2**

(Section 80)

### **VANUATU POLICE DE VANUATU**

### **CERTIFICATE OF PREVIOUS CONVICTIONS**

### **EXTRAIT DU CASIER JUDICIAIRE**

I hereby certify that I have compared the finger impressions of ..... contained on fingerprint from number ..... and taken at ..... on ..... by ..... with records held at the Criminal Registry of the Vanuatu Police Force, and have found them to be identical with the finger impression of ..... The following convictions are recorded against this person, which are a true copy of the records held at this office.

Je soussigné ....., certifie avoir comparé les empreintes digitales de ..... prélevées à..... le ..... par ..... et figurant sur le formulaire N° ..... avec celles de fiches de l'Identité Judiciaire de la Police de Vanuatu, et constaté qu'elles sont identiques à celles de ..... Les condamnations suivantes, dont l'intéressé a fait l'objet, sont une copie conforme des Fiches détenues au Fichier de notre Bureau.

Signed/Signé: .....

Fingerprint form no.: Formulaire d'empreintes N°.:	Date of conviction: Date des condamnations:	Court: Tribunal:	Offence of which convicted: Délit:	Sentence: Condamné à:	Name in which convicted: Nom sous lequel, l'intéressé a été condamné:

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#### ***Table of Amendments (since the Revised Edition 1988)***

*1 Amended by Acts 1 of 1991, 19 of 2000*

*4(4) Inserted by Act 12 of 1994; Substituted by Act 19 of 2000*

*4(5) Inserted by Act 19 of 2000*

*Part 3A (34A-34G) Inserted by Act 19 of 2000*

*9 Substituted by Act 1 of 1991*

*32A Inserted by Act 1 of 1991*

*82(ca) Inserted by Act 1 of 1991*

*82(ha), (hb) Inserted by Act 19 of 2000*