

REPRINT

POLICE ACT 2013

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AN ACT TO PROVIDE FOR THE ORGANISATION, DISCIPLINE, POWERS AND DUTIES OF THE POLICE FORCE, TO REPEAL THE POLICE ACT (CAP. 110) AND FOR CONNECTED OR INCIDENTAL MATTERS

POLICE ACT 2013

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POLICE ACT 2013

As in force at: 1 March 2014

PART 1 PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Police Act 2013*, and shall come into force on such date as the Minister may appoint by notice in the *Gazette*.

2 Interpretation

In this Act:

“alcohol drink” means any liquor, wine, spirits, beer or any liquid containing alcohol ordinarily used or fit for use as a beverage, or any other liquid which the Minister administering the *Liquor Act* has declared to be liquor for the purposes of the *Liquor Act* (Cap.144);

“arms” includes firearms;

“authorised officer” means a person appointed by the Commissioner under section 27 of this Act;

“Commissioner” means the Commissioner of Police appointed under this Act and includes:

- (a) a person appointed to act temporarily in the position; and
- (b) a person to whom the Commissioner has delegated any function or power in respect of the exercise by that person of the function or power;

“court process” means a summons, warrant, order, direction or other process of a court, judge, magistrate or judicial officer or the registrar of a court;

“crime scene” means:

- (a) a place where a serious offence is suspected to have been committed; or
- (b) a place where there may be evidence of significant probative value, of the commission of a serious offence that is suspected to have been committed in some other place,

that needs to be protected to enable a police officer to preserve, search for and gather evidence of the commission of the offence;

“dangerous drug” means any substance which is subject to the provisions of the *Dangerous Drugs Act* (Cap. 98);

“Deputy Commissioner” means the Deputy Commissioner of Police appointed under this Act and includes a person appointed to act temporarily in the position;

“disciplinary control” means imposing the following punishments for the commission of a disciplinary offence:

- (a) removal;
- (b) demotion;
- (c) reduction in pay or
- (d) fine;

“driver” means any person who drives or guides, or is in actual physical control of any vehicle on any road, including the rider of a motor bike and any person steering a vessel or piloting an aircraft;

“dwelling” includes a building or other structure, or part of a building or other structure kept by the owner or occupier as a residence;

“emergency” includes a hazardous materials incident, natural disaster, fire, flood, tsunami, earthquake, structural collapse or any other event that causes a risk to, or threatens life, property, the environment or the economy;

“firearm” has the same meaning as in the *Firearms and Ammunition Act* (Cap. 80) but does not include incapacitating gases;

“fingerprint” means an image or impression of the friction ridge detail from the palmar surface of a person’s hand, and includes a digital image of that friction ridge;

“forensic procedure” includes:

- (a) an examination of a part of the body that requires touching of the body or the removal of clothing;
- (b) the taking of a sample of hair;
- (c) the taking of a sample from or under a fingernail or toenail;
- (d) the taking of a sample of saliva;
- (e) the taking of a sample by swab or washing from any external part of the body, including the mouth and the ears;
- (f) the taking of a sample by vacuum suction, by scraping or by lifting by tape from any external part of the body;
- (g) taking an impression or cast from a part of the body;
- (h) the taking of a breath sample for breathalyser analysis; and
- (i) the taking of a sample of blood, urine or other bodily fluid, excretion or substance;

“instruments of restraint” means handcuffs, ankle cuffs, batons, straitjackets and any other item prescribed by regulation;

“intoxicated” means physically or mentally impaired due to the consumption of an alcoholic drink or other drug;

“managerial guidance” means the provision of supervision, training, counselling, mentoring, or other service or activity directed at improving staff performance and professionalism;

“officer in command” means the police officer with command and control for the time being of a police unit, police station, police post or a specified operation or area;

“opened container” includes a container that has been opened,

even if it is closed at the material time, and regardless of whether or not some of its contents have been removed;

“order” includes a Commissioner’s Order issued pursuant to this Act;

“probationary constable” means a member of the police force serving a period of probation in accordance with Part 3;

“police animal” means any dog, horse or other animal prescribed in the regulations that have been or are being trained to be used by police officers in the course of carrying out police duties and responsibilities;

“police force” means the Royal Solomon Islands Police Force;

“police officer” means a member of the police force of any rank who has taken the oath of office including an authorised officer;

“police property” means:

- (a) any police uniform, badge, emblem, document, certificate, accoutrements, medal, vehicle, aircraft, vessel, fuel or equipment issued to a police officer for use in the execution of police duties;
- (b) any property used by, in control of or in the possession of the police force; and
- (c) any police document or copy of that document;

“police premises” includes any police station, police post, police cell, police housing and any other land or buildings in the possession of the police force used for police purposes;

“police uniform” means distinctive clothing or equipment that is issued to police officers to be worn whilst on duty and has a colour, pattern or style that enables the person wearing it to be readily identifiable as a police officer;

“police weapons” includes all firearms, tactical equipment and instruments of restraint;

“public place” includes any place or any part of a place that is open to, or being used by the public but only for the period the place is ordinarily open to the public;

“recruit” means a person who is undergoing or is approved to undergo the course of training required to be a police officer but who has not completed the course or taken the oath;

“restricted communication” means:

- (a) any communication that may prejudice the maintenance of the law, the safe custody of a prisoner, the safety of any other person or the security of any police station, police post or police cell; and
- (b) any communication that takes place after the police officer in whose charge the prisoner is, has forbidden that communication or directed that it cease;

“road” means any public road within the meaning of the *Roads Act* (Cap.129) or any Act replacing that Act and includes any other road or way, wharf or car park on which vehicles are capable of travelling and to which the public has access, and includes a bridge over which a road passes;

“serious offence” means any criminal offence for which the penalty that may be imposed is 5 or more years imprisonment;

“specialist employee” means a public officer who is not a police officer and who is appointed to an office in the police force;

“substance test” means a test, including a sobriety test designed to test whether a person is physically or mentally impaired by alcohol or a drug;

“sworn member” means a member of the police force of any rank who has taken the oath of office;

“supervisor” when used in relation to any act done or thing permitted by a police officer, means a police officer senior in rank to the police officer doing the act or permitting the thing;

“surveillance device” means a data surveillance device, a listening device, an optical surveillance device, a tracking device or any other device prescribed by regulation;

“tactical equipment” includes incapacitating gases, stun guns, smoke canisters, impact rounds, electrical charge devices, water cannons and any other item prescribed by regulation;

“traffic” includes animals in charge or under the control of any person, pedestrians and vehicles in or on any road, whether stationary or not;

“vehicle” includes a motor vehicle, a trailer and any other conveyance used on the road;

“violence” means:

- (a) physical abuse;
- (b) sexual abuse; or
- (c) psychological abuse including intimidation, abuse, harassment, damage to property and threats to do any of those acts.

PART 2 GOVERNANCE AND ADMINISTRATION

3 Name of police force

The police force established by the *Police Act* (Cap.110) repealed by this Act shall continue in being, subject to this Act and be called the Royal Solomon Islands Police Force.

4 Statement of principles

This Act is based on the following principles:

- (a) upholding the rule of law;
- (b) respecting customary law, cultural practices and ethnic diversity;
- (c) preserving the human rights of individuals;

- (d) demonstrating gender equity;
- (e) performing duties impartially and independently from improper influence;
- (f) professionalism, ethical behaviour and integrity;
- (g) conducting all aspects of policing with fairness, transparency and accountability;
- (h) working together with the local communities;
- (i) working together with non-government organisations, churches, faith based organisations and community based organisations; and
- (j) working co-operatively with other Government agencies.

5 Code of Conduct

- (1) A Code of Conduct shall be prescribed by regulation stating the standards of behaviour to apply to all police officers, authorised officers and specialist employees.
- (2) Any breach of the Code of Conduct constitutes a disciplinary offence.

6 Independence of the Police

Police officers shall act independently, subject to the command of the Commissioner, when carrying out any function or performing any duty authorised under this Act and shall not act in accordance with the directions, command or control of any person who is not authorised under this or any other Act or the *Constitution* to direct, command or control the actions of a police officer.

7 Functions of the police force

The functions of the Royal Solomon Islands Police Force includes:

- (a) maintaining law and order;
- (b) preserving the peace;

- (c) protecting life and property;
- (d) preventing and detecting crime;
- (e) apprehension of offenders;
- (f) upholding the laws of Solomon Islands;
- (g) maintaining national security;
- (h) assisting with the service and execution of court processes and orders;
- (i) maintaining community safety, confidence and support;
- (j) fire prevention and suppression;
- (k) land and marine search and rescue;
- (l) explosive ordinance disposal;
- (m) assisting in dispute resolution; and
- (n) providing assistance during emergencies.

8 Constitution of the police force

The Royal Solomon Islands Police Force shall consist of:

- (a) the Commissioner of Police;
- (b) two Deputy Commissioners of Police;
- (c) other ranks of police officers in accordance with this Act or as may be prescribed in accordance with the *Constitution*;
- (d) specialist employees appointed in accordance with this Act; and
- (e) authorised officers appointed in accordance with this Act.

9 Emergency military force

- (1) During a period of public emergency as defined in section 16 of the *Constitution*, the Prime Minister may direct that the police force or

any part of the police force shall be employed as a military force for the period of public emergency.

- (2) Members of the police force employed as a military force shall comply with the orders of:
 - (a) the Commissioner of Police; or
 - (b) any other military authority approved by a resolution of Parliament supported by the votes of at least two-thirds of all members of Parliament.
- (3) A direction under subsection (2)(b) that the police force will comply with the orders of a military authority shall not affect:
 - (a) any powers of appointment, dismissal or disciplinary control of members of the police force conferred upon any person by this Act, the *Constitution* or any other Act; or
 - (b) except so far as the resolution of Parliament directs, the command, supervision and direction of the police force is vested in the Commissioner under this Act.

10 Commissioner of Police

- (1) The Governor-General shall appoint a Commissioner of Police subject to the provisions of the *Constitution*.
- (2) The Commissioner of Police shall by order, subject to the provisions of the *Constitution*:
 - (a) provide for the command, supervision and direction of all police officers in accordance with this Act;
 - (b) administer and control the operations of the police force;
 - (c) determine the use of police officers and police force resources; and
 - (d) make orders consistent with this Act or any regulations for the administration, safety, security, efficiency, discipline, training and good governance of the police force.

11 Commissioner's Responsibilities

The Commissioner, in addition to any other functions conferred under this Act or any other Act, has the following responsibilities:

- (a) to ensure the security and accuracy of all records and information systems;
- (b) to ensure the safe storage, recording and return of public property and exhibits;
- (c) to ensure that requests and complaints from all persons are dealt with in a fair, prompt and effective manner;
- (d) to monitor, record and report upon all significant incidents relating to public security and public order;
- (e) to maintain discipline and order through a fair and equitable process;
- (f) to ensure that all police officers and specialist employees recognise and respect different languages and different cultures in the workplace and in the community;
- (g) to ensure that the Statement of Principles in this Act is upheld;
- (h) to ensure that all police officers and specialist employees comply with the Code of Conduct;
- (i) to ensure safe and responsible distribution, usage and storage of all clothing, equipment, arms and property;
- (j) to ensure that all orders and policies comply with Solomon Islands laws and international legal obligations;
- (k) to facilitate and support close and effective working relationships between chiefs, community leaders, religious leaders, community members and the police force that contribute to public safety and public order; and
- (l) administer and account for all financial resources and public money issued to the police force.

12 Independence of the Commissioner

The Commissioner shall act independently of any person, including any Minister or person acting on the instructions of a Minister in relation to:

- (a) the maintenance of order regarding any individual or group of individuals;
- (b) the enforcement of the law in regard to any individual or group of individuals; and
- (c) decisions within the Commissioner's power about any police officer or employee.

13 Commissioner's Orders

The Commissioner may from time to time issue Commissioner's Orders relating to any of the functions, powers or duties conferred by this or any other Act or regulations, and to ensure the efficient and effective management of the police force. Such orders may be:

- (a) of general application;
- (b) limited to a class or classes of police officers, authorised officers or specialist employees; or
- (c) of application only in specified divisions, provinces or locations.

14 Commissioner's power to delegate

- (1) The Commissioner may delegate, by order, the exercise of any function, power, duty or responsibility under this or any other Act, to:
 - (a) any police officer, authorised officer or specialist employee of the police force or
 - (b) any person, or class of persons authorised by the regulations.
- (2) The Commissioner may appoint any police officer, authorised officer or specialist employee to be in command or control of the police in any place or on any operation.

- (3) Any delegation or appointment made under this section may be made subject to any conditions or restrictions that the Commissioner deems appropriate, including factors or criteria that must be taken into account when the command or delegation is exercised.
- (4) The Commissioner may exercise any power that has been delegated under this section and may, by order, revoke or amend any delegation.

15 Delegation to Provincial Commanders

- (1) The Commissioner may delegate by order in writing the responsibilities and functions under the Act for the administrative command and direction of all police stations, police posts and police officers in any province to the Provincial Police Commander for the province.
- (2) The Provincial Police Commander of each province is responsible to the Commissioner for the safe custody, issue and use of police property, financial resources and public money issued to the province.

16 Responsibilities of Minister

The Minister shall be responsible for:

- (a) the proper administration of this Act;
- (b) the proper administration of the Ministry;
- (c) providing the Commissioner of Police with general directions of policy for the maintenance of public safety and public order and the prevention of crime; and
- (d) providing the Commissioner of Police with general directions or policy for recognising and respecting the role of chiefs, community leaders, religious leaders and community members in the maintenance of public safety and public order.

17 Ranks

The Royal Solomon Islands Police Force shall consist of the following ranks:

- (a) Commissioner;
- (b) Deputy Commissioner;
- (c) Assistant Commissioner;
- (d) Chief Superintendent
- (e) Superintendent
- (f) Inspector
- (g) Staff Sergeant
- (h) Sergeant
- (i) Constable

18 Commissioner's Reports

The Commissioner shall provide an annual report to the Minister which must include:

- (a) an account of the performance and operations of the police force;
- (b) any substantive changes that have been made in respect of any aspect of the police force since the previous report;
- (c) any information required under any other Act or regulations; and
- (d) any reports or recommendations that the Commissioner considers necessary for the efficient and effective administration of the police force or for improving the performance of the police force.

PART 3 EMPLOYMENT

19 Appointments

- (1) The Police and Prison Services Commission may make appointments, including temporary or acting appointments, for

officers in the police force of or above the rank of Inspector.

- (2) The Commissioner may make appointments, including temporary or acting appointments for officers in the police force below the rank of Inspector.
- (3) The Public Service Commission may make appointments for specialist employees working in the police force.

20 Prospective employees to provide information

- (1) As a condition of employment as a police officer, authorised officer or specialist employee, a person may be required to:
 - (a) provide evidence of any qualifications or experience required for the position;
 - (b) provide fingerprints, biometric information or bodily sample;
 - (c) provide identification evidence; and
 - (d) provide medical or other reports relevant to determining whether the applicant is capable of performing the required duties.

21 Merit appointments

- (1) All appointments of police officers and specialist employees, including acting appointments, promotions and transfers shall be based on merit. Preference must be given to the person who is best qualified and suited for the position.
- (2) In determining the merit of the applicant, consideration must be given to:
 - (a) the integrity, diligence and conduct and past performance of the person;
 - (b) the potential of the person to discharge the duties of the position;
 - (c) the educational or vocational training qualifications of the applicant;

- (d) the ability, aptitude, skill, knowledge and experience of the person to meet the requirements of the position; and
 - (e) the physical and mental fitness of the person to perform the duties of the position.
- (3) Notwithstanding the above, where candidates are of equal merit, the Commissioner may take into account the need for the police force to contain officers from a wide variety of language groups, to have officers from all provinces and to promote gender and ethnic equity.

22 Qualifications for appointment

- (1) The Commissioner may determine the qualifications, skills, knowledge or attributes that are required for appointment to any position, provided that the requirements sought are a genuine occupational requirement for the position.
- (2) In determining the qualifications, skills, knowledge or attributes required for a position, the Commissioner must have regard to the principles of ethnic diversity, gender equity and protection of human rights.

23 Obligation to notify vacancies

If the Commissioner intends to appoint a person to any vacancy or prospective vacancy, other than an acting, temporary or casual vacancy, the Commissioner must notify the vacancy or prospective vacancy in a manner sufficient to ensure that suitable qualified people are able to apply for the vacancy.

24 Applications from outside the police force

The Commissioner may direct that applications for any vacancy be invited from persons both within and outside the police force, including former police officers.

25 Appointments from outside the police force

- (1) The Commissioner or the Police and Prison Services Commission may appoint a person from outside the police force to fill an advertised vacancy if the Commissioner is satisfied:

- (a) there is no applicant who is a current member of the police force with greater or equal merit;
 - (b) the person has the requisite skills, knowledge, qualifications and training; and
 - (c) the person is not a former police officer who has been found guilty of any major disciplinary offence or has been dismissed from the police force.
- (2) A person employed pursuant to this section may be appointed:
 - (a) to a specified position, rank or grade;
 - (b) for a permanent, fixed or specified term; or
 - (c) to perform specific duties and on such terms and conditions as are set out in the contract of employment.
- (3) A person who is employed in the police force but is not a sworn member may not perform policing functions or exercise police powers other than the functions specified in the terms and conditions of their employment.

26 Obligation to notify appointments

The Commissioner must notify police officers and specialist employees of every appointment, other than an acting, temporary or casual vacancy to every vacant position in the police force.

27 Appointment of authorised officers

- (1) The Commissioner or the Police and Prison Services Commission may, by instrument in writing, appoint any person to be an authorised officer to assist the police force in the performance of its functions.
- (2) The instrument of appointment shall specify the date of commencement and the term of appointment for each authorised officer.
- (3) If the Commissioner appoints a person under subsection (1), the Commissioner must be satisfied that the person meets the recruitment eligibility requirements and has been adequately trained

to properly exercise the powers conferred by the instrument of appointment.

- (4) The Commissioner may, at any time, terminate the authorised officer's appointment.

28 Resignation of authorised officer

- (1) An authorised officer may resign by giving a signed notice of resignation to the Commissioner.
- (2) A resignation is not effective until it is approved in writing by the Commissioner.

29 Attachment to a public office

- (1) The Commissioner may authorise a police officer to be attached to a public office in a Solomon Islands Ministry at the request of:
 - (a) a police officer;
 - (b) a Minister;
 - (c) a Permanent Secretary of a Ministry, or
 - (d) the Public Service Commission.
- (2) The appointment may be made on conditions set by the Commissioner including the period of time of the appointment and the commencement date.
- (3) The Commissioner may grant leave of absence without pay for the duration of the appointment.
- (4) The Commissioner may fill the position of an officer who is appointed to a public office and declare the officer unattached.
- (5) When an unattached member returns to the police force from a position as a public officer, the officer shall be reappointed to a position not lower than his or her former rank when a suitable position becomes available, provided that the officer has complied with the conditions of appointment set by the Commissioner.

30 Enlistment/Probation

- (1) All police officers recruited to the police force shall be placed on probation.
- (2) The period of probation continues for two years, including time spent undertaking the basic training course. All officers must display good conduct and satisfactory performance throughout the probation period to be eligible for permanent appointment.
- (3) The period of probation may be extended for any period up to a maximum of three years from the start of training if the recruit:
 - (a) has been absent on authorised leave for part of the probation period; or
 - (b) has not completed all the training and work experience requirements to a satisfactory standard; and
 - (c) there is a reasonable expectation that the recruit will be able to complete the necessary requirements in the extension period.
- (4) The period of probation may be shortened or waived if the recruit:
 - (a) has completed all the training and work experience requirements to a satisfactory level; or
 - (b) is a former police officer who has previously completed the training and work experience requirements to a satisfactory level.

31 Enlistment requirements

- (1) All persons eligible to apply for recruitment into the police force must:
 - (a) meet the prescribed minimum standards of education;
 - (b) be over the age of 18 years;
 - (c) be physically and mentally fit to perform the duties of a police officer;
 - (d) be of good character;

- (e) comply with any other prescribed requirements; and
- (f) provide any documents or other material requested as evidence of compliance with the prescribed selection criteria.

32 Declaration on oath

- (1) Every police recruit who has successfully completed all basic training and work experience requirements shall become a sworn member of the police force by making the declaration on oath or by affirmation before the Commissioner or any officer above the rank of Inspector.
- (2) Every police officer must make the oath or affirmation before undertaking any duties of office.
- (3) The form of oath or affirmation shall be as set out in the Schedule to the Act.

33 Evidence of appointment

- (1) The Commissioner must provide every police officer with evidence of the officer's identity and authority.
- (2) The evidence must be in the prescribed form and contain the prescribed information.

34 Uniforms and equipment

- (1) Unless otherwise authorised, every officer on duty must wear the police uniform, appointments and accoutrements as directed by the Commissioner.
- (2) All police uniforms, appointments, accoutrements and police property issued to any officer remains the property of the police force and shall only be used in connection with official duties.

35 Place of service

- (1) All police officer must serve in any location or place including:
 - (a) any location within Solomon Islands;
 - (b) on any vessel, vehicle or aircraft;

- (c) any location outside Solomon Islands subject to the provisions of Part 8.
- (2) The power to make postings and transfers for police officers of any rank is vested in the Commissioner.

36 Promotions below inspector rank

- (1) The Commissioner may, subject to this Part, make promotions in respect of all police officers below the rank of Inspector.
- (2) In determining whether to promote an officer to a position, the Commissioner may refer any question relating to the promotion to a Police Promotions Board but is not bound to follow the advice and shall make his or her own determination in each case.
- (3) The Commissioner may make orders in relation to the practices and procedures to be followed in relation to advertising vacancies and making promotions.

37 Promotions above inspector rank

The Police and Prison Services Commission, subject to the *Constitution* and this Act, may make promotions to officers in the police force of or above the rank of Inspector

38 Police Promotion Boards

- (1) The Commissioner may appoint officers to be members of Police Promotion Boards for periods of time determined by the Commissioner.
- (2) Police Promotion Boards shall meet when directed by the Commissioner and shall provide advice to the Commissioner on any matters relating to promotions of officers below the rank of Inspector that have been referred by the Commissioner.
- (3) Police Promotion Boards may provide advice on the promotion decisions made by selection panels if requested by the Commissioner.
- (4) The Commissioner may make orders in relation to the procedures and practices to be followed by Police Promotion Boards.

39 Special allowances

The Minister may prescribe special allowances, including parade allowances, and the allowances shall be paid at the discretion of the Commissioner to officers of the ranks and at the rates prescribed.

40 Absence due to illness

- (1) Any officer unable to attend for duty due to illness or misadventure must immediately report the matter to his or her immediate supervisor or the officer in command of the station, post or place where the officer is rostered for duty.
- (2) Any officer who fails to attend for duty due to illness or misadventure must produce a medical certificate or other evidence of illness in accordance with the Commissioner's Orders.
- (3) Any officer who fails to attend for duty and report the illness or misadventure, or fails to produce a medical certificate or evidence of illness is deemed to be on unauthorised leave and no pay or entitlements will accrue to the officer for the duration of the unauthorised absence.

41 Leave or absence from duty

- (1) No officer shall be absent from duty or leave their appointed place of duty without the authority of the commissioner, Provincial Police Commander or their immediate supervising officer.
- (2) All officers authorised to leave their place of duty may do so only after handing over their duties and any equipment in their charge to the officer relieving in the position.

42 Resignation

- (1) Any police officer may resign from the police force by giving a signed notice of resignation to the Commissioner at least three months prior to the proposed date of resignation.
- (2) A resignation is not effective until it is approved in writing by the Commissioner.
- (3) A police officer who is subject to any disciplinary inquiry or

disciplinary action may resign from the police force but is deemed to be a police officer for disciplinary purposes until the disciplinary action is completed.

- (4) The Commissioner may waive or shorten the period of notice required by this section.

43 Transfer or retirement due to incapacity

- (1) If the Commissioner believes that any officer has become permanently medically unfit to discharge the duties of office efficiently, the Commissioner may require the officer to undergo a medical examination within a stated period.
- (2) If the medical practitioner certifies that the officer is unfit to perform any specified duties, the Commissioner may:
 - (a) transfer the officer to other duties of equal or lower rank and salary; or
 - (b) require the officer to retire from the police force within a specified time.

44 Retaining officers due to emergency

The Commissioner may, during a state of war, insurrection, hostilities or period of public emergency:

- (a) refuse to allow a police officer to resign; or
- (b) if an officer's appointment is due to expire, extend the appointment for a specified time.

45 Termination

A police officer ceases to be a member of the police force:

- (a) when his or her resignation has been approved by the Commissioner;
- (b) when the officer has been required to retire by the Commissioner due to medical incapacity;

- (c) when the officer has been dismissed as a result of disciplinary action;
- (d) when the officer has been convicted of an offence for which a term of imprisonment has been imposed by a court; or
- (e) when the officer has been discharged.

46 Retirement

- (1) Subject to subsection (2), the compulsory retirement age for police officers shall be 55 years of age.
- (2) Upon application by a member, the Commissioner may:
 - (a) allow the officer to retire at any age between 50 and 55 years; or
 - (b) determine that the maximum retirement age for that officer is a specified age being over 55 years but less than 60 years.
- (3) The retirement age shall not apply to the Commissioner or other police officers engaged under specified terms and conditions.

47 Discharge of recruits and Probationary Constables

- (1) A police officer or recruit who is undergoing basic training or serving his or her probation period may be discharged from the police force at any time if the Commissioner considers that:
 - (a) the person is unlikely to become an efficient police officer;
 - (b) the person has breached the Code of Conduct;
 - (c) the person has committed a disciplinary offence;
 - (d) the person did not meet the minimum requirements for recruitment; or
 - (e) the person supplied false or misleading information in their application for employment.
- (2) A person discharged under this section shall be given one month's

notice of the intention to discharge or be given one month's pay in lieu of the notice.

48 Delivery of arms and equipment

- (1) A police officer who ceases to be a member of the police force must immediately deliver up any evidence of appointment, arms, ammunition, equipment, police uniform and other appointments or police property in their custody which was given to the former member for the purposes of carrying out official duties as a member of the police force.
- (2) All property must be delivered up to the officer appointed by the Commissioner for that purpose or to the officer in command of the place in which the officer was last stationed.

PART 4 POWERS AND DUTIES

49 General powers and duties

- (1) A police officer may exercise any power conferred on a police officer by this Act or any other law or common law.
- (2) A police officer shall obey:
 - (a) Commissioner's Orders;
 - (b) policies approved by the Commissioner;
 - (c) any applicable local orders issued by Provincial Police Commanders; and
 - (d) lawful commands of a supervisor or officer in command.
- (3) A police officer has a duty to:
 - (a) promptly obey and execute all orders and warrants lawfully issued by any competent authority;
 - (b) collect and communicate intelligence affecting the public peace;
 - (c) prevent the commission of offences and public nuisances;

- (d) detect offenders and bring them to justice; and
- (e) apprehend all persons whom he or she is legally authorised to apprehend provided that sufficient grounds for apprehension exist.

(4) A police officer is on duty at all times.

50 Preservation of common law powers

- (1) Unless this Act otherwise provides expressly or by implication, this Act does not limit:
- (a) the functions, obligations and liabilities that a police officer has as a constable at common law;
 - (b) the functions that a police officer may lawfully exercise, whether under any other law or as an individual citizen, or
 - (c) the powers conferred by common law on police officers to deal with breaches of the peace.

51 Dealing with breaches of the peace

- (1) This section applies if a police officer suspects, on reasonable grounds, that:
- (a) a breach of the peace is happening or has happened; or
 - (b) there is an imminent likelihood of a breach of the peace; or
 - (c) there is a threatened breach of the peace.
- (2) A police officer may take steps that the police officer considers are reasonably necessary to prevent the breach of the peace happening or continuing.

52 Preventing offences generally

- (1) This section applies if a police officer suspects, on reasonable grounds, that an offence:
- (a) has been committed; or

- (b) is being committed; or
 - (c) is about to be committed.
- (2) A police officer may take steps that the police officer considers are reasonably necessary to prevent the commission of that offence or the commission of a further offence.

53 Prevention of offences relating to liquor

- (1) This section applies if:
- (a) a police officer suspects, on reasonable grounds, that a person has committed, is committing, or is about to commit an offence against the *Liquor Act* (Cap.144); or
 - (b) the police officer suspects, on reasonable grounds, that an opened container of alcoholic drink at the place, or in the person's possession or under the person's control, relates to, is contributing to, or is likely to contribute to the commission of the offence by the person.
- (2) The police officer may seize:
- (a) the opened container and its contents; and
 - (b) any unopened container of alcohol drink at the place, and its contents, that the police officer suspects, on reasonable grounds, relates to, or is contributing to, or is likely to contribute to, the commission of an offence against a provision of the *Liquor Act* (Cap.144) at the place by the person or another person.
- (3) A police officer may dispose of anything that is seized under this section in the way the police officer considers reasonably necessary to prevent the commission, continuation or repetition of the offence.

54 Preventing riots

A police officer may take steps that the police officer believes, on reasonable grounds, are necessary to suppress a riot.

55 Dispersing procession or assembly

A police officer who suspects on reasonable grounds, that any procession or public assembly held in any place to which the public has access other than a building is a danger to public peace or is likely to cause a breach of the peace or is an obstruction may order such procession or public assembly to disperse.

56 Arrest for breaching Processions and Public Assemblies Act

A police officer may arrest without warrant any person committing an offence under the *Processions and Public Assemblies Act* or Rules (Cap 29) and may detain the person until the person can be brought before a Magistrate.

57 Entry to premises to prevent violence

- (1) This section applies if a police officer suspects, on reasonable grounds, that:
 - (a) an act of violence is occurring or has occurred on the premises;
 - (b) there is an imminent risk of either violence or injury to a person or an offence involving damage to property; or
 - (c) a breach of the peace is being or is likely to be committed and it is necessary to enter the premises to end or prevent the breach.
- (2) A police officer may:
 - (a) enter the premises;
 - (b) remain on the premises as long as is reasonably necessary to take remedial or preventative action; and
 - (c) give or arrange assistance or help to any person at the premises.
- (3) If the police officer is reasonably satisfied that a reason for entry exists, the police officer may do any of the following:
 - (a) detain a person for a search, or to prevent acts of violence or

damage to property;

- (b) search anyone detained for anything that may be, or has been, used to cause the violence, injury or damage; and
 - (c) search the premises for any person who may be a victim of violence or at risk of being injured or for any thing that may be, has been or might be used to cause violence, injury or damage.
- (4) The power of search conferred by subsection (3) is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.

58 Entry for investigating death or injury

- (1) This section applies if a police officer suspects, on reasonable grounds, that someone inside any premises, vehicle, aircraft or vessel is dead, likely to die or suffer permanent injury or in need of urgent medical treatment.
- (2) The police officer may, with or without the consent of the owner or occupier:
- (a) use the force that is reasonably necessary to break into the premises, vehicle, aircraft or vessel; and
 - (b) enter the private premises, vehicle, aircraft or vessel to find out whether someone is dead, injured or in need of medical treatment; and
 - (c) stay on the premises or in the vehicle, aircraft or vessel for only as long as it is necessary in the circumstances for the police to ensure that anything that needs to be done for the person is done.

59 Entry for investigating unnatural deaths

- (1) If a police officer suspects, on reasonable grounds, that a person's death was brought about, or accelerated by an unnatural cause, the police officer shall:
- (a) if the body can be found, arrange for the deceased person's body to be taken to hospital; and

- (b) ask a magistrate to order a medical practitioner to examine the deceased person's body and determine the cause of death.
- (2) The police officer may seize anything that the police officer suspects on reasonable grounds might be relevant to a magistrate's inquiry into the cause of death at the place where the deceased person's body was found or where the death apparently occurred.
- (3) The police officer may photograph the deceased person's body or anything else at the place that the police officer suspects on reasonable grounds may be relevant to a magistrate's inquiry into the cause of death.

60 Obtaining information into the cause of unnatural death

- (1) A police officer shall, upon request by a magistrate holding an inquiry into an unnatural death, assist the magistrate to investigate the death and to obtain information relevant to the inquiry.
- (2) A police officer may question any person, whom the police officer suspects on reasonable grounds may be able to give information that is relevant to the inquiry.
- (3) When questioning a person for the purposes of obtaining information about an unnatural death the police officer must inform the person that:
 - (a) the person may refuse to answer questions or give information, if the information would tend to incriminate the person; and
 - (b) the person may seek legal advice before giving the information.

61 Service of court process

Subject to any other law, a police officer shall execute all process and serve all summons and warrants relating to criminal matters.

62 Entry to property for serving court process

- (1) A police officer who is serving a court document may enter public or private property and remain on the property for as long as is reasonably necessary to serve the document provided that the police officer may only use minimal force to enter the premises.

- (2) Notwithstanding subsection (1) the police officer may enter a private dwelling house only if the occupier allows the officer to enter or a warrant or other authority allows the officer to enter.

63 Entry for the purpose of investigation

- (1) A police officer may enter and stay on a place for a reasonable time to inquire into or investigate a matter.
- (2) Notwithstanding subsection (1) a police officer may not:
 - (a) enter a dwelling house unless the occupier of the dwelling house consents to the entry; and
 - (b) enter and remain on private property unless authorised under search warrant or other lawful authority.

64 Entry to effect arrest

- (1) A police officer may enter any property to make an arrest and stay there as long as is reasonably necessary to arrest the person.

65 Entry to dwelling house to effect arrest

- (1) If the property contains a dwelling the police officer may enter without the consent of the occupier only if the police officer suspects, on reasonable grounds the person to be arrested is at or in the dwelling.
- (2) If the person was arrested for a serious offence, a police officer may enter and search any premises where the person was arrested for evidence relating to the offence but only:
 - (a) to the extent that is reasonably required for locating and seizing such evidence; and
 - (b) if the police officer has reasonable grounds to believe that there is evidence of the commission of the crime on the property.

66 Entry to licensed premises

- (1) A police officer may at any time:
 - (a) enter licensed premises or any premises where it is permitted

to sell and consume alcoholic drinks; and

- (b) request the name, address and age of any person on or in the premises.

67 Cessation of police powers

When a police officer is dismissed, suspended, retires, resigns or otherwise ceases to hold or exercise office, all powers and authority vested in the officer as a member of the police force shall immediately cease.

68 Use of force against individuals

- (1) A police officer who is exercising or attempting to exercise power against an individual under this or any other Act or law may use reasonable and proportionate force to exercise the power.
- (2) The force that a police officer may use under this section shall not include force that is likely to cause death or grievous bodily harm to a person unless it is necessary to prevent death or serious injury to the police officer or another person.
- (3) A police officer who is required to use any instrument of restraint, tactical weapon or firearm must submit a report as soon as practicable to his or her supervisor, officer in command, Provincial Police Commander or Commissioner in accordance with the Regulations and Commissioner's Orders.

69 Corporal punishment

A police officer must not use corporal punishment against a person.

70 Regulations for use and possession of police weapons

- (1) The Minister, after consultation with the Prime Minister, may make regulations specifying:
 - (a) what police weapons and firearms may be used by police; and
 - (b) the circumstances under which police weapons are to be issued and used.

- (2) All police issued with police weapons must be trained and competent in the use of the specific item of equipment issued to the officer.
- (3) All police weapons prescribed pursuant to subsection (1) must be of a type approved, in writing by the Prime Minister and the Commissioner.
- (4) The Commissioner may make orders relating to:
 - (a) the issue, training and circumstances for use of police weapons; and
 - (b) the distribution, maintenance, handling, storage and record keeping of all police weapons.
- (5) All police weapons must be used strictly in accordance with the regulations and the Commissioner's Orders.

71 Authorisation for the use and possession of police weapons

- (1) The Commissioner may authorise any person to have in his or her possession any prescribed police weapon provided that the Commissioner is satisfied that it is reasonable and necessary for the person to possess the police weapon.
- (2) An authorisation is subject to any conditions included in the authorisation and may be revoked by the Commissioner at any time.

72 Firearms licence

Notwithstanding the provisions of any other Act or law, a police officer authorised under this Act to possess a firearm in the ordinary course of his or her duties is not required to hold a firearms licence.

73 Driving licence

- (1) A police officer driving a police vehicle or vessel is required to hold a licence and:
 - (a) the police officer must undergo and pass a training course approved by the Commissioner; and
 - (b) must be certified as competent to safely control that vehicle or

vessel.

74 Police dogs and animals

- (1) The Commissioner may authorise a police officer to use a police dog or other prescribed police animal to assist the police officer generally in the exercise of his or her duties or to assist in the detection of specific goods and substances.
- (2) Any police officer who uses a police dog or animal must:
 - (a) comply with any Commissioner's Orders, instructions or policies in relation to the use of police dogs or animals; and
 - (b) have successfully completed the required training course in relation to the use of police dogs or animals.
- (3) A police animal under the control of a police officer may enter and be on any place that the police officer may lawfully be in the course of police duties.

75 Requesting identifying information

- (1) A police officer may require a person to state the person's full name, residential address and date of birth if:
 - (a) the police officer finds the person committing an offence;
 - (b) the police officer suspects, on reasonable grounds, that the person has committed an offence;
 - (c) the police officer suspects, on reasonable grounds that the person may be able to help in the investigation of a vehicle, vessel or aircraft incident or criminal offence because the person was near the place where the incident or offence occurred at or about the time when the incident or offence occurred;
 - (d) the person is in control of a vehicle, aircraft or vessel;
 - (e) the police officer is attempting to enforce a court order in relation to a person or to serve a court document on a person;
or

- (f) the person is performing an activity that is required by law to be performed under a licence.
- (2) The police officer requesting the identifying particulars pursuant to subsection (1) may require the person to give evidence of the correctness of the name, address or date of birth given by the person if, in the circumstances, it would be reasonable to expect the person to be in possession of such evidence.
- (3) A police officer requesting information under subsections (1) and (2) may detain the person for only as long as is reasonably necessary to obtain and verify the particulars.

76 Detaining a person to obtain identifying information

A police officer who suspects on reasonable grounds, that a person has committed an offence and who intends to bring proceedings against the person in respect of that offence by way of summons, may detain that person at any place:

- (a) in order to take the person's name, residential address and date of birth; and
- (b) only for the period necessary to take the person's identifying particulars.

77 Power to inspect licence

If any person is required by any law to have any of the following items:

- (a) a licence to perform an activity;
- (b) an authorisation or permit to conduct an activity; or
- (c) a register or other records relating to the activity,

a police officer may require the person to produce the item for inspection at a place and time that the police officer reasonably requires.

78 Power to remove or exclude persons

- (1) A police officer may remove or exclude a person or vehicle, vessel or aircraft from any private or public premises if:
 - (a) the premises are a crime scene and it is necessary for the police officer to secure the crime scene;
 - (b) the police officer believes on reasonable grounds that it is necessary to do so to ensure the safety of any person;
 - (c) it is necessary to prevent a breach of the peace or the commission of an offence; or
 - (d) the premises are the scene of a coronial investigation or fire inquiry.
- (2) In order to exclude a person or persons under subsection (1), the police officer may do any of the following:
 - (a) enter the premises;
 - (b) use reasonable force to exclude or remove a person from the premises;
 - (c) erect barricades, barriers on the road or premises;
 - (d) erect signs or notices on or near the premises; and
 - (e) anything that the police officer considers reasonable necessary to prevent access or egress to or from the premises.

79 Powers relating to entry to public buildings

- (1) A police officer may require a person entering a building belonging to the government or being used for the business of government to state the person's reason for entering the building.
- (2) If a police officer considers, on reasonable grounds that it is necessary to do so, the police officer may ask the person to do one or more of the following:
 - (a) allow the police officer to inspect the person's belongings;

- (b) remove any outer garments and allow them to be inspected;
 - (c) remove any items from the person's clothing and allow the items to be inspected;
 - (d) open a vehicle, vessel, aircraft or package or baggage and allow an inspection; and
 - (e) allow a police officer of the same gender to conduct a pat search.
- (3) For the purposes of this section ***“pat search”*** means:
- (a) quickly running the hands over a person's outer clothing; or
 - (b) using an electronic or other scanning device or police animal in close proximity to the person; and
 - (c) an examination of anything worn by the person that can be conveniently and voluntarily removed by the person.
- (4) The police officer may refuse to allow any property or item to be brought into the building or to remain in the building if the officer is of the opinion that it may compromise the safety and security of the building or any person.
- (5) A police officer may direct any person to leave a building, and may use reasonable and proportionate force to evict any person, who does not comply with any request or direction given by a police officer under this section.

80 General power to keep order on public roads

- (1) It shall be the lawful duty of any police officer to:
- (a) regulate and control vehicular traffic, including parked vehicles;
 - (b) regulate and control pedestrians on or adjacent to roads;
 - (c) divert all or any particular kind of vehicle;
 - (d) restrict, close or deny access to any or all persons or vehicles to any road, street, thoroughfare, footpath or landing; and

- (e) keep order on public roads, streets, thoroughfares, landing places, footpaths, and at other places to which the public have access.
- (2) Any person who opposes or disobeys a lawful direction or order given by a police officer in the performance of his or her duty may be arrested without a warrant unless the person provides sufficient identifying information to the police officer to satisfy the officer that the person will obey any summons or attend any proceedings which may be taken against the person.

81 Stopping vehicles

- (1) A police officer may require any person who is in control of a vehicle, vessel or aircraft to stop the vehicle, vessel or aircraft:
 - (a) for enforcing a road transport law or any other law; or
 - (b) to check whether the vehicle, vessel or aircraft of the person is complying with any road transport or any other law.
- (2) A police officer may enter the vehicle, vessel or aircraft or part of the vehicle or vessel or aircraft to conduct a substance test on any person who is in control of the vehicle, vessel or aircraft.

82 Removal of defective vehicles

- (1) A police officer may prohibit the use of any vehicle that the officer considers does not meet the required standards for the safety of the public, or does not comply with the requirements of any law.
- (2) A prohibition under subsection (1) shall be in writing and shall:
 - (a) state the conditions or defect which renders the vehicle not roadworthy or unsafe;
 - (b) set out the conditions and actions necessary to repair or remedy the defect; and
 - (c) remain in force until the vehicle has been certified as complying with all conditions, laws or regulations in respect to construction, use, equipment and environmental safety.

83 Arrest of intoxicated drivers

A police officer may arrest without warrant any driver of a vehicle who the officer suspects, on reasonable grounds of driving or attempting to drive whilst being unfit to drive by reason of impairment caused by drugs or alcoholic drink.

84 Prohibiting a person driving

A police officer may order any person in control of a motor vehicle not to drive the vehicle if the police officer suspects on reasonable grounds that the person would contravene a law by driving the vehicle.

85 Moving a vehicle

If a police officer considers that the position or location of any vehicle on a road, thoroughfare, landing, footpath or public place may pose a hazard or obstruction to other road users, the police officer may cause the vehicle to be moved to the nearest safe place to abate the hazard.

86 Investigating a traffic incident

A police officer may investigate any accident or incident relating to the presence of a vehicle on a road, street, thoroughfare, footpath or landing by:

- (a) inspecting any vehicle at any reasonable time and at any premises where the vehicle is located;
- (b) ordering any person in control of any vehicle not to move it for such reasonable time as may be required for the purpose of investigating the cause of the accident and preparing any plan or report; and
- (c) impounding any vehicle for any period of time the police officer thinks is necessary to conduct the investigation.

87 Inspection of vehicles

- (1) A police officer may:

- (a) enter any vehicle;
 - (b) drive any vehicle or cause any vehicle to be driven; and
 - (c) upon reasonable suspicion that any offence under this Act or any other Act may have been committed, order and require the owner of any vehicle to bring the vehicle to the police officer, for the purpose of examining and testing the vehicle with a view to ascertaining whether the provisions of this or any other Act are being complied with or with a view to ascertaining whether any vehicle is being used in contravention of this or any other Act.
- (2) A police officer may require the holder of any vehicle licence or the owner or any person in possession of any vehicle which he has reasonable cause to believe is used on a road, to produce the vehicle at such reasonable time and place as he shall specify for the purpose of carrying out any examination or test.

88 Power of arrest without warrant

- (1) A police officer may arrest without warrant anyone:
- (a) who is about to commit an offence;
 - (b) who is in the act of committing an offence;
 - (c) whom the police officer has reasonable grounds for suspecting to be about to commit an offence;
 - (d) whom the police officer has reasonable grounds for suspecting to be committing an offence.
 - (e) whom the police officer has reasonable grounds to suspect has committed an offence; or
 - (f) who has escaped from lawful custody.
- (2) The power of arrest conferred by subsection (1) is exercisable only if the police officer believes, on reasonable grounds that it is necessary to arrest the person for any of the following reasons:
- (a) to enable the name, address and identity of the person to be

ascertained;

- (b) to prevent the person from suffering injury or causing injury to themselves or any other person;
- (c) to prevent the person causing loss, damage or destruction to property;
- (d) to prevent the person from committing another offence;
- (e) to protect a child or other vulnerable person;
- (f) to allow the prompt and effective investigation of the offence or of the conduct of the person; or
- (g) to prevent any prosecution for the offence being hindered by the disappearance of the person in question.

89 Power of arrest of intoxicated persons

- (1) If a police officer arrests an intoxicated person the police officer may take the person to:
 - (a) a police station or post; or
 - (b) a safe place where the person can be released and can receive treatment or care whilst they recover from the intoxication.
- (2) A police officer who releases a person pursuant to subsection (1)(b) must be satisfied that:
 - (a) a person at the safe place is able to care for the intoxicated person; and
 - (b) the intoxicated person does not pose a risk to themselves or another person at the safe place.

90 Power of arrest with warrant

A police officer acting under a warrant may arrest any person named in the warrant whether or not the police officer has the warrant in his or her possession at the time of the arrest.

91 Search of person in custody

- (1) A police officer may search and re-search a person if the person is:
 - (a) lawfully arrested;
 - (b) in lawful custody for a charge of an offence that has not been decided;
 - (c) in custody under a sentence for a period of imprisonment;
 - (d) in custody on remand awaiting trial or sentence; or
 - (e) otherwise lawfully detained under any other law.
- (2) A police officer may seize anything found during the search of the person:
 - (a) that the police officer suspects, on reasonable grounds, might provide evidence of the commission of an offence;
 - (b) that may endanger the safety of any person;
 - (c) that may be used for an escape; or
 - (d) that the police officer considers, on reasonable grounds, should be kept in safe custody while the person is in custody.
- (3) If a police officer takes any property from an intoxicated person who is taken to a safe place, the police officer may give the property to an adult who is apparently in charge of, or residing at the safe place, for safe-keeping whilst the intoxicated person is at the place.
- (4) If the safe place is not the home of the person from whom the property was taken, the person to whom the property is entrusted must return the property to the owner before the owner leaves the safe place.

92 Safeguards for searches of persons

- (1) A police officer searching a person must:
 - (a) ensure, as far as reasonably practicable, that the way in which

the person is searched causes minimal embarrassment to the person;

- (b) take reasonable care to protect the dignity of the person;
 - (c) unless an immediate and more thorough search of a person is necessary, restrict the search of the person in public to an examination of the outer clothing; and
 - (d) if a more thorough search of a person is necessary but does not have to be conducted immediately, conduct a more thorough search of the person out of public view.
- (2) Unless an immediate search is necessary, the person conducting the search shall be:
- (a) a police officer of the same sex as the person to be searched;
 - (b) if there is no police officer of the same sex available to search the person, someone acting at the direction of a police officer and of the same sex as the person to be searched; or
 - (c) a medical practitioner acting at the direction of a police officer.

93 Search of persons without warrant

- (1) A police officer may stop, detain and search a person without warrant if the police officer suspects on reasonable grounds that the person has in his or her possession:
- (a) an item that may be a firearm, weapon, explosive or dangerous item that the person may not lawfully possess;
 - (b) an item that may be a dangerous drug;
 - (c) an item that may be stolen property;
 - (d) an item that may have been used, is being used, is intended to be used, or is primarily designed to be used for committing a criminal offence;
 - (e) an item that may threaten the safety and security of a correctional centre, police cell or any place where persons are

lawfully detained;

- (f) an item that may be something that the person intends to use to cause harm to himself or herself or to any other person; or
 - (g) any article that is evidence of the commission of a criminal offence or an offence against customs or immigration law.
- (2) A police officer may seize all or any part of a thing that is detected during a search under subsection (1) that apparently fits the description of any item or article listed in that subsection or that may provide evidence of the commission of an offence.
- (3) A police officer who detains a person for a search must only detain the person for time reasonably necessary to conduct the search.

94 Searches of children or vulnerable person

A police officer shall not conduct a search of a person under the age of 18 or of a person who has impaired intellectual functioning except in the presence of:

- (a) a parent or guardian of the person;
- (b) if it is not practicable for the parent or guardian to be present;
or
- (c) the person to be searched objects to their presence,

the search should be conducted in the presence of another person who is not a police officer and is capable of representing the interests of the child or person.

95 Information for arrested person

A police officer who arrests a person must, as soon as is reasonably practicable after the arrest, inform the person, in a language and manner that the person understands:

- (a) that the person is under arrest; and
- (b) of the nature of the offence for which the person is arrested.

96 Person assisting an investigation

A person who attends a police station or any other place with a police officer for the purposes of assisting police with an investigation:

- (a) shall be entitled to leave at any time unless he or she is arrested; and
- (b) shall be informed immediately that he or she is under arrest if a decision is taken by a police officer to prevent him or her from leaving at will.

97 Power to collect identifying information

- (1) Whenever a person is in lawful custody on a charge of having committed any offence, a police officer may take any particulars deemed necessary for identification of that person including:
 - (a) a photograph of the person, including a photograph of any identifying marks, scars or tattoos; and
 - (b) the person's fingerprints, palm prints, footprints, measurements, voice print, handwriting or description.
- (2) Any identifying information collected pursuant to this section must be destroyed if the person is acquitted of the offence or if a decision is made not to bring proceedings or to withdraw the proceedings.
- (3) A police officer may use reasonable and proportionate force to collect identifying information under this section.

98 Power to collect forensic sample

- (1) Where a person is in lawful custody on a charge of having committed any offence and a forensic sample may provide evidence in relation to that offence, a police officer may conduct a forensic procedure to obtain a forensic sample.
- (2) Where a police officer carries out a forensic procedure on a person, the police officer must make and sign a record of the procedure as soon as practicable after the procedure.
- (3) Any forensic sample collected pursuant to this section must be

destroyed if the person is acquitted of the offence.

99 Request for the supply of identifying information for forensic sample

- (1) If a police officer suspects, on reasonable grounds:
- (a) that an offence has been committed, and
 - (b) that the identifying information or forensic sample of a particular person, who is not a suspect, will afford evidence of the commission of the offence or will assist in identifying the offender,

the police officer may request the person to consent to providing identifying information or undergoing a forensic procedure.

- (2) A police officer who requests a person to consent to a forensic procedure must inform the person, at the time of the request, of the following matters:
- (a) the offence that is suspected of being committed and to which the procedure relates;
 - (b) the purpose of the procedure;
 - (c) how the procedure will be done;
 - (d) that information or material obtained may be put on a police database;
 - (e) that if the person should become a suspect for the offence, the evidence provided by the person could be used in court against the person;
 - (f) that the person, by instructions in writing, may limit the purposes for which the evidence can be used;
 - (g) that the person may consent or refuse to consent to the procedure; and
 - (h) that any consent can be withdrawn at any time before the procedure has been completed.

100 Provision of forensic samples to suspect

If a police officer takes a forensic sample from a suspect and there is sufficient material to be analysed both in the investigation of the offence and on behalf of the suspect, the police officer must ensure that:

- (a) part of the material sufficient for analysis is made available to the suspect as soon as possible after the forensic procedure has been carried out;
- (b) reasonable care is taken to ensure that the suspect's part of the material is protected and preserved until the suspect receives it; and
- (c) reasonable assistance is given to the suspect to ensure that the material is protected and preserved until it can be analysed.

101 Storage of identifying information and forensic samples

- (1) Any identifying information, forensic samples or analyst's reports shall be stored in a secure and safe place that is approved by the Commissioner.
- (2) The identifying information, forensic samples and analyst's reports may be accessed only by persons who are authorised in writing by the Commissioner to have access.
- (3) A person who is authorised to access identifying information, forensic samples and analyst's reports may do so only for the following purposes:
 - (a) to administer the storage system;
 - (b) for purposes relating to coronial inquests;
 - (c) to assist in the investigation of an offence;
 - (d) any purpose that is permitted under any other Act or law;
 - (e) any purpose prescribed by regulation; or
 - (f) to assist in matching the information or sample with information

or samples:

- (i) of missing persons or deceased persons;
- (ii) of persons suspected of having committed an offence; or
- (iii) obtained at a crime scene or taken from a victim or witness to a crime scene.

102 Search of vehicles without a warrant

- (1) A police officer may stop, detain and search a vehicle, vessel or aircraft without warrant if the police officer suspects on reasonable grounds that the vehicle, vessel or aircraft contains:
 - (a) an item that may be a firearm, weapon, explosive or dangerous item that the person may not lawfully possess;
 - (b) an item that may be a dangerous drug;
 - (c) an item that may be stolen property;
 - (d) an item that may have been used, is being used, is intended to be used, or is primarily designed to be used for committing a criminal offence;
 - (e) an item that may threaten the safety and security of a correctional centre, police cell or any place where persons are lawfully detained; or
 - (f) an item that may be something that the person intends to use to cause harm to himself or herself or to harm any other person; or
 - (g) any article that is evidence of the commission of a criminal offence or an offence against customs or immigration law.
- (2) A police officer may seize all or any part of a thing that is detected during a search under subsection (1) that apparently fits the description of any item or article listed in that subsection or that may provide evidence of the commission of an offence.
- (3) A police officer conducting a search pursuant to this section may also

stop, detain and search any person who is in the vehicle, vessel or aircraft for any item listed in subsection (1).

- (4) If it is impractical to search the conveyance at the place where it is located, a police officer may take a vehicle, aircraft or vessel to a place or facility that has appropriate facilities for searching the vehicle, aircraft or vessel and search the vehicle, aircraft or vessel at that place.
- (5) A police officer who detains a vehicle, vessel or aircraft for a search must only detain the vehicle, vessel or aircraft for as long as is reasonably necessary to conduct the search.

103 Electronic screening devices

- (1) The Commissioner may authorise in writing, any police officer to use an electronic screening device if the Commissioner believes it is necessary for public safety, national security or the safety and security of any government building or property.
- (2) The authorisation shall be subject to any Commissioner's Orders issued in relation to the device and may be revoked or varied by the Commissioner at any time.

104 Application for search warrant

- (1) A police officer may apply to a magistrate for a warrant to enter and search a place in order to obtain evidence of the commission of an offence or to recover stolen property if the police officer has reasonable grounds to suspect that the evidence or property sought is on or in the place to be searched.
- (2) The search warrant application must state:
 - (a) the name, rank and station of the officer seeking the warrant;
 - (b) a description of the place to be searched;
 - (c) if the place is occupied, the name of the occupier if it is known;
 - (d) the offence to which the application relates;
 - (e) a description of the thing sought that is suspected of being

evidence of the commission of the offence;

- (f) the information or evidence that is being relied upon to support a suspicion that evidence of the commission of an offence is at the place or is likely to be at the place at the time the warrant is executed; and
- (g) if the warrant is to be executed at night, the reason why it is necessary to execute the warrant at night.

105 Authority conferred by search warrant

- (1) A search warrant authorises any executing officer to enter the subject premises and search the premises for things connected with the offence stated in the warrant application, and to stay at the place for the time that is reasonably necessary to execute the search warrant.
- (2) A police officer executing a search warrant may:
 - (a) pass over, through, along or under another place to enter the place to which the warrant relates;
 - (b) prevent a person from entering the place;
 - (c) detain any person who is suspected of being involved in the commission of the offence or who may have possession of the evidence sought under the warrant committing the offence for as long as it is necessary for the proper execution of the warrant;
 - (d) remove any person or animal from the place;
 - (e) search the place and any person or thing at the place for the evidence that is sought under the warrant;
 - (f) open anything at the place that is locked;
 - (g) remove any wall, ceiling linings, floors, panels or other fixtures to search for the evidence sought under the warrant;
 - (h) dig up land;
 - (i) photograph anything that the officer suspects, on reasonable

grounds may provide evidence;

- (j) seize anything at the place or on a person that the executing officer suspects, on reasonable grounds may provide evidence of the offence;
- (k) seize and detain anything that the officer finds in the course of executing the warrant that the officer suspects, on reasonable grounds is evidence connected with any offence;
- (l) use electricity or other necessary utility at the place;
- (m) do anything reasonably necessary to prevent loss, destruction or damage to anything connected with the offence;
- (n) use other police officers or assistants as the officer considers necessary for the execution of the warrant;
- (o) operate equipment, or direct an occupant of the place to operate equipment to access data that could be seized under the warrant;
- (p) copy any data to a storage device and take the storage device from the place;
- (q) copy any data in documentary form and seize the produced documents; and
- (r) if it is not practicable to copy or store the data, seize any computer, equipment, or storage device.

106 Detention of seized goods

- (1) Any item or property that has been seized by a police officer after a search of a person or a place, may be taken away and retained as long as is necessary in all the circumstances, in a prescribed place.
- (2) Notwithstanding subsection (1) all money and items of property taken from a person in custody must be returned to the person upon release except where:
 - (a) the property may be needed for evidence in proceedings brought against the person; or

- (b) possession of the property may constitute an offence.

107 Warrant to use surveillance devices

- (1) The Commissioner may apply to a principal magistrate or a judge, in the prescribed form, for a warrant to use a surveillance device or equipment to obtain evidence if a police officer believes on reasonable grounds that a person has committed, is committing or is about to commit a serious offence.
- (2) The magistrate or judge may issue the warrant if satisfied that there are reasonable grounds for the belief founding the application for the warrant.
- (3) In determining whether the surveillance warrant shall be issued the judge or magistrate must consider:
 - (a) the highly intrusive nature of a surveillance device;
 - (b) the nature and gravity of the offence for which the warrant is sought;
 - (c) the extent to which the privacy of any person not involved in the offence is likely to be affected;
 - (d) alternative ways of obtaining the information or evidence and the extent to which those ways may help or prejudice the investigation;
 - (e) the evidentiary or intelligence value of any information sought to be obtained; and
 - (f) the existence of any previous warrant issued in connection with the same offence and the value of the evidence obtained under that warrant.
- (4) The surveillance warrant authorises a police officer or specialist employee to:
 - (a) enter the subject premises for the purpose of installing, maintaining or removing the device;
 - (b) enter, pass over, go through, along or under another place to

enter the place to which the warrant relates; and

- (c) record, copy, transfer or store any information obtained by the device.

108 Establishment of a crime scene

- (1) A police officer may enter any place that the police officer suspects, on reasonable grounds, is a crime scene and may establish a crime scene.
- (2) A police officer who establishes a crime scene must identify what part of a place is the crime scene and mark the boundaries of the crime scene sufficiently to identify the crime scene to the public.
- (3) As soon as practicable after the establishment of a crime scene, the police officer shall apply for a warrant to search for, and seize, any evidence found at the crime scene.

109 Preserving evidence at a crime scene

- (1) A police officer responsible for establishing a crime scene, or other nominated officer responsible for the crime scene (the responsible officer), must take all steps he or she considers reasonably necessary to protect anything at the crime scene from being damaged, interfered with or destroyed including:
 - (a) ensuring that any person whose presence is not essential does not enter the crime scene;
 - (b) preventing unnecessary movement inside the crime scene;
 - (c) establishing a safe walking area to minimise the risk of damaging any evidence;
 - (d) ensuring that nothing is unnecessarily touched or moved; and
 - (e) directing the removal of, or removing any person, animal, vehicle, vessel or object from the crime scene;

until all necessary forensic and technical examinations are finished.

110 Directing a person to move on

- (1) A police officer may direct a person who is in or near a public place to move on if the police officer suspects, on reasonable grounds, that the behaviour or presence of the person is:
 - (a) causing anxiety to a person in a public place;
 - (b) interfering with trade or business in the public place;
 - (c) disrupting peaceable and orderly conduct of any event at a public place;
 - (d) committing a breach of the peace;
 - (e) hindering, obstructing or preventing any lawful activity carried out by another person; or
 - (f) disorderly, indecent, offensive or threatening to a person in the public place.
- (2) The police officer giving a direction under subsection (1) must tell the person the reasons for giving the direction.
- (3) The police officer giving a person a direction under subsection (1) must take into account the likely effect of the order on the person, including the person's need or ability to access places where he or she resides, shops, works or has access to transport, health, utilities, education or other services.

111 Criminal record checks

- (1) A police officer may conduct a check of person's criminal record and provide a criminal record certificate provided that:
 - (a) the person has requested or consented to the check; or
 - (b) the check is conducted by a police officer for the purpose of conducting an investigation into a criminal offence or providing information to a court or another law enforcement agency.
- (2) A criminal record certificate shall contain details of all criminal convictions, cautions, mediations, spent convictions, traffic

infringements, protection orders and pending criminal charges.

- (3) Notwithstanding subsection (2) a criminal record provided to a court for the purpose of sentencing an offender shall only contain details of all convictions, cautions and traffic infringements.

PART 5 CONDUCT AND DISCIPLINE

112 Definition of Breach of Discipline

A police officer commits a breach of discipline if the officer:

- (a) contravenes this Act or Regulations;
- (b) fails to comply with the Code of Conduct;
- (c) fails to comply with the Commissioner's Orders;
- (d) is guilty of committing any criminal offence;
- (e) fails to disclose, and take reasonable steps to avoid, any real or apparent conflict of interest in relation to the officer's duties;
or
- (f) behaves in a manner which brings or is likely to bring the police force into disrepute or which may affect the confidence that the community has in the police force.

113 Professional Standards and Internal Investigations Unit

- (1) The Commissioner may appoint police officers to a unit or division set up for the purpose of administering discipline and maintaining ethical behaviour, professional standards and integrity.
- (2) The Commissioner may delegate any power in relation to discipline and punishment, except the power of removal, to the Director of the Professional Standards and Internal Investigations Unit or to any Provincial Police Commander.

114 Report breach of discipline or offence

- (1) Any person may report a breach of discipline by a police officer by making a complaint orally or in writing to:

- (a) the officer in command of a police station or post;
 - (b) the Provincial Police Commander; or
 - (c) the Commissioner.
- (2) Any police officer who reasonably suspects that another police officer has committed an offence against discipline or against any law of Solomon Islands must immediately report the matter to:
- (a) the officer in command of a police station or post;
 - (b) the Provincial Police Commander; or
 - (c) the Commissioner.

115 Internal complaints

- (1) Any police officer can make any complaint or lodge a grievance in writing to his or her supervisor or officer in command in relation to any matter relating to the police force or a police officer.
- (2) If the complainant and the supervisor agree, the complaint may be dealt with by the supervisor using any or all of the following methods:
 - (a) mediation;
 - (b) reconciliation;
 - (c) rectification action;
 - (d) apology;
 - (e) training, peer support or managerial supervision; or
 - (f) reprimand.
- (3) Any complaint that cannot be resolved pursuant to subsection (2) must be forwarded to the Commissioner or the person designated by the Commissioner to accept complaints and grievances as soon as practicable.
- (4) If the complaint is in relation to a breach of discipline or breach of the

Code of Conduct, the complaint shall be forwarded to, and investigated by, the person or unit the Commissioner has delegated the power to conduct and administer disciplinary inquiries and the police officer or officers involved must be disciplined in accordance with the provisions of this Act and regulations.

116 Public complaints

- (1) Any member of the public may make a complaint or lodge a grievance about any matter relating to the police force by submitting a complaint in writing to the officer in command of a police station or police post or to the Commissioner.
- (2) If the complainant and the officer in command agree, the complaint may be dealt with by the supervisor using any or all of the following methods:
 - (a) mediation;
 - (b) reconciliation;
 - (c) rectification action;
 - (d) apology;
 - (e) training, peer support or managerial supervision; or
 - (f) reprimand.
- (3) Any complaint that cannot be resolved pursuant to subsection (2) must be forwarded to the Commissioner or the person designated by the Commissioner to accept complaints and grievances as soon as practicable.
- (4) If the complaint is in relation to a breach of discipline or breach of the Code of Conduct, the complaint shall be forwarded to, and investigated by, the person or unit the Commissioner has delegated the power to conduct and administer disciplinary inquiries.
- (5) If the complaint is made about a specialist staff member, the complaint must be forwarded to the Commissioner, the Leadership Code Commission and the Public Service Commission.

- (6) The complainant shall be provided with information about the process for dealing with the complaint and shall be notified in writing of the results of any investigation or disciplinary action taken under this Act or Regulations.

117 Power to discipline

The Commissioner may make orders in relation to the practices, procedures and responsibilities to be used to conduct disciplinary investigations and inquiries.

118 Major disciplinary offences

In addition to the breach of any duty imposed elsewhere in this or any other Act, subsidiary legislation or law, a police officer shall be guilty of a major disciplinary offence if the officer, without lawful excuse:

- (a) disobeys, omits or fails to carry out any lawful order;
- (b) fails to appear for duty or is late for duty 3 or more times within 3 months;
- (c) sleeps on duty;
- (d) leaves his or her post without authorisation;
- (e) resists arrest or escapes from arrest, custody, confinement or escort;
- (f) disobeys a lawful order to apprehend or assist in the apprehension of any person;
- (g) knowingly or negligently allows a prisoner to escape;
- (h) uses any weapon, instrument of restraint or protective equipment without just cause or contrary to orders;
- (i) assaults, ill-treats, or uses excessive force against any person;
- (j) pawns, sells, damages or negligently loses any police property;
- (k) without lawful authority, divulges, communicates, shows or

supplies to any person, any information, document, record or copy of any item obtained in the course of police duties or relating to any matter concerning the police force, an officer, a suspect or any other person;

- (l) incurs a debt beyond his or her means;
- (m) makes a false statement in any document prepared for use by the police force, including job applications, expressions of interest and statements prepared for disciplinary inquiries;
- (n) makes a false, misleading, dishonest or incomplete statement or report, or destroys, intentionally misplaces, erases, or alters any entry in any official document or record;
- (o) engages in secondary employment without prior permission;
- (p) fails to provide a full financial statement when requested by the Commissioner or Provincial Police Commander;
- (q) commits 3 or more minor disciplinary offences within a period of 3 months;
- (r) commits a criminal offence;
- (s) fails to disclose or to take reasonable steps to avoid any real or apparent conflict of interest;
- (t) engages in unwelcome conduct of a sexual nature that could be reasonably anticipated to offend, humiliate, embarrass or intimidate another police officer or any other person;
- (u) behaves in a manner which is likely to bring the police force into disrepute or affect community confidence;
- (v) fails to comply with any suspension order or any penalty or order administered for a breach of discipline;
- (w) aids or abets or is knowingly an accessory to any criminal offence or breach of duty; or
- (x) engages in any other conduct, act or omission that has the potential to compromise the safety, security and good

governance of the police force or any police station or post.

119 Minor disciplinary offences

In addition to the breach of any duty imposed elsewhere in this or any other Act, subsidiary legislation or law or Regulations, a police officer shall be guilty of a minor disciplinary offence if the officer, without lawful excuse:

- (a) disobeys, omits or neglects to carry out any lawful order or duty;
- (b) uses disrespectful words or displays disrespectful behaviour;
- (c) is unable to attend for duty or to properly carry out duties due to intoxication;
- (d) fails to appear for duty or is late for duty;
- (e) sleeps on duty;
- (f) leaves his or her post without authorisation;
- (g) pawns, sells, damages or negligently loses any police property;
- (h) is dirty or untidy whilst on duty or whilst in any public place in police uniform;
- (i) falsely reports or feigns an illness or misadventure or wilfully produces an illness or infirmity;
- (j) neglects, fails or refuses to make, provide or send a report;
- (k) behaves in a manner likely to bring the police force into disrepute or affect community confidence;
- (l) bullies or harasses another person;
- (m) possesses or consumes any dangerous drug, alcoholic drink, betel nut or kava in any area of police premises or in a public place whilst on rostered duty;
- (n) possesses or consumes any dangerous drug, alcoholic drink, betel nut or kava whilst on rostered duty or whilst wearing police

uniform;

- (o) charges interest on any loan to another police officer;
- (p) requests a loan, gift or item of value from an officer of lower rank;
- (q) treats another officer less favourably on the basis of gender, race, ethnicity, marital status or disability; or
- (r) engages in any other conduct, act or omission that has the potential to compromise the safety, security and good governance of the police force or any police station or post.

120 Investigation of breach of discipline

- (1) Any police officer who receives a report of a breach of discipline pursuant to this Part must immediately cause an investigation to be carried out in relation to the alleged breach.
- (2) If the police officer investigating the matter suspects, on reasonable grounds that a breach has been committed, the matter must be referred to a disciplinary inquiry.
- (3) Nothing in this or any other Act prevents a disciplinary investigation or inquiry from being held and a determination made, prior to, or concurrently with any criminal or civil action that may be commenced or contemplated.

121 Search of officers

Police Officers may be searched by another police officer of the same gender, if the police officer to conduct the search believes on reasonable grounds that the officer has in his or her possession any article that is evidence of the commission of a criminal offence or disciplinary offence.

122 Suspension pending inquiry

- (1) The Commissioner may suspend from duty any police officer who is the subject of a disciplinary complaint, investigation or inquiry or who is alleged to have committed a criminal offence.

- (2) At any time during the suspension period, the Commissioner may, upon application by the suspended police officer, vary or withdraw the suspension order.

123 Pay whilst suspended

- (1) When a police officer is suspended pursuant to this Part, the Commissioner shall determine what portion of pay and entitlements the suspended police officer shall receive or accrue during the suspension period.
- (2) If a police officer receives a reduction in pay pursuant to subsection (1), the officer may apply to the Commissioner to review or vary the deduction on the basis of financial hardship or special circumstances.
- (3) If the disciplinary or criminal proceedings against a police officer do not result in dismissal, demotion or criminal conviction, the police officer is entitled to be reimbursed for any pay or other entitlement withheld during the suspension period.
- (4) If a police officer is demoted, reimbursement of pay and entitlements shall be made at the demoted level.
- (5) Reimbursement of pay and entitlements should be withheld until any appeal has been determined or any appeal period has expired.

124 Act and regulations apply to suspended police officer

- (1) A suspended police officer remains subject to all the provisions of the Act and regulations pertaining to officers provided that the powers vested in the police officer shall be in abeyance during the period of the suspension, unless the Commissioner orders otherwise.
- (2) A suspended officer remains subject to the Code of Conduct, discipline and penalties and to the same authority and discipline as if the officer had not been suspended.

125 Disciplinary action after leaving the police force

If an accused police officer resigns, retires or otherwise ceases employment with the police force before the conclusion of a

disciplinary investigation or inquiry, the investigation or inquiry can proceed and a penalty may be imposed as though the police officer had continued to be employed.

126 Breach of suspension order

An officer who breaches the conditions of a suspension order or dismissal order must be brought back before the disciplinary authority that imposed the suspension and is liable to be penalised for both breach of the order and any new breach of discipline.

127 Inquiry into breach of discipline

- (1) Subject to section 121 of the *Constitution*, the Commissioner, Director Professional Standards and Internal Investigations Unit, Provincial Police Commander, Disciplinary Tribunal or a police officer in command may conduct an inquiry into and determine a disciplinary offence committed by an officer of lower rank.
- (2) A police officer subject to disciplinary inquiry is not permitted to have a legal representative present during the inquiry but may have another police officer of his or her own choosing present to provide welfare and support to the accused police officer.
- (3) A police officer present at the inquiry pursuant to subsection (2) may remain with the accused officer during the inquiry but must take no part in the proceedings.
- (4) Nothing in this section prevents an accused police officer from seeking or obtaining legal advice in relation to the matter, at their own expense, either before or after the inquiry.

128 Dispensing with an inquiry

If a police officer conducting an inquiry into a disciplinary offence determines at any stage that the matter can be most effectively resolved by mediation, reconciliation, rectification action, apology, training, peer support, managerial guidance or reprimand, he or she can dispense with the inquiry and resolve the matter using any or all of those methods.

129 Conciliation

Conciliation and mediation may be used to resolve minor breaches of discipline or complaints of a minor or trivial nature provided that both the aggrieved person and the accused police officer agree and the process is conducted in accordance with the Commissioner's Orders.

130 Summary reprimand

Notwithstanding anything in this Act, the Commissioner may summarily administer managerial guidance or a reprimand to any police officer for a minor disciplinary breach.

131 Burden of proof for inquiry

If any police officer or tribunal conducting a disciplinary inquiry determines that a charge against a police officer is proved on the balance of probabilities, a finding of guilt may be made and a penalty imposed.

132 Penalties

- (1) The Commander or officer in command conducting a disciplinary inquiry may impose any one or more of the following penalties:
 - (a) managerial guidance;
 - (b) reprimand;
 - (c) a fine not exceeding 10 days pay; or
 - (d) a suspension for a period not exceeding 7 days
- (2) Subject to section 121(2) of the *Constitution*, the Commissioner, Director of Professional Standards and Internal Investigation Unit or a Disciplinary Tribunal may impose any one or more of the following penalties:
 - (a) managerial guidance;
 - (b) reprimand;

- (c) a fine not exceeding 20 days pay;
- (d) a suspension for a period not exceeding 14 days;
- (e) reduction in rank; or
- (f) dismissal.

133 Dismissal or demotion after court conviction

The Commissioner or Director of Professional Standards and Internal Investigations Unit may reduce in rank or dismiss any police officer who has been convicted by any court of an offence against any Act or law, unless the officer has successfully appealed against the conviction.

134 Appeal after dismissal or demotion

Any police officer who has been reduced in rank or dismissed as a result of a determination by the Commissioner after conviction by a court may appeal against the penalty to the Police and Prison Services Commission under section 122 of the *Constitution*.

135 Penalties for serious offences

If any police officer conducting an inquiry makes a finding of guilt and is of the opinion that the maximum penalty that can be imposed is insufficient in the circumstances, the proceedings and any findings or recommendations may be transferred to the Commissioner, the Director Professional Standards and Internal Investigations Unit or the Police and Prison Services Commission for the imposition of the penalty.

136 Notice of transfer for penalty imposition

When a proceeding is transferred to the Commissioner or Director Professional Standards and Internal Investigations Unit for imposition of the penalty, the accused police officer must be notified and must be permitted to make oral or written representations in mitigation of penalty.

137 Reports of inquiries

Each Provincial Police Commander must regularly report to the Commissioner and the Director of Professional Standards and Internal Investigations Unit the details, findings and penalties imposed for all inquiries held in their province.

138 Disciplinary Tribunal

- (1) For the purpose of conducting any inquiry, penalty determination or review that Commissioner or the Director of Professional Standards and Internal Investigations Unit are authorised to undertake, the Commissioner or Director Professional Standards and Internal Investigations Unit may instead convene a Disciplinary Tribunal to hear and determine the proceedings.
- (2) A Disciplinary Tribunal shall be chaired by a police officer of a higher rank than the person charged and may also consist of such other members as may be prescribed by regulation.

139 Notification of charge

Every police officer charged with a disciplinary offence must be given a copy of the charge in writing and must be allowed to appear and make representations at any inquiry.

140 Right of appeal

Any police officer who is found guilty of a disciplinary offence and receives a penalty must be informed of any right of review or appeal.

141 Appeal to Police and Prison Services Commission

An appeal lodged pursuant to section 122 of the *Constitution* may be lodged with the Secretary of the Police and Prisons Commission within 7 days of the imposition of a penalty or within such further time as the Chairman may allow.

142 Notice of appeal

The notice of appeal to the Police and Prisons Commission must:

- (a) be submitted in writing;

- (b) set out the grounds of appeal; and
- (c) state whether the appeal is in relation to the finding, the punishment or both.

143 Review by Commissioner

- (1) The Commissioner may review any disciplinary proceedings conducted by an officer in command, Provincial Police Commander, the Director Professional Standards and Internal Investigations Unit or any Disciplinary Tribunal, provided that the Commissioner was not a member of the Tribunal.
- (2) A police officer found guilty of a disciplinary offence by a Provincial Police Commander, officer in command, Director Professional Standards and Internal Investigations Unit or Disciplinary Tribunal may, within 7 days of the imposition of the penalty or in such further time as the Commissioner may allow, apply to the Commissioner for a review of the proceedings.

144 Options upon review

- (1) If the Commissioner or the Disciplinary Tribunal reviews proceedings and determines that the finding or the penalty is not appropriate they may do one or more of the following:
 - (a) quash the finding;
 - (b) find the accused guilty of another offence;
 - (c) reduce, increase or vary the penalty; or
 - (d) return the proceedings for rehearing by another police officer.
- (2) If the Commissioner or Disciplinary Tribunal reviewing proceedings forms the view that the penalty should be increased, or that the accused is guilty of another offence, they must inform the accused and give the accused the opportunity to make representations in relation to the offence or penalty

145 Summons to witness

- (1) Any police officer or tribunal authorised by this Act or regulations to

conduct an inquiry or review into a breach of discipline shall have the power to summon witnesses and examine witnesses under oath.

- (2) No witness shall be obliged to answer any question which may tend to incriminate the person or render them liable to any forfeiture or penalty.

146 Officer must answer questions

- (1) A police officer accused of a disciplinary offence must answer any questions in relation to the offence put to the officer by any person authorised to inquire into or investigate the circumstances of the offence.
- (2) Notwithstanding subsection (1), a police officer must be informed of the privilege against self incrimination and may refuse to answer a question if the answer may tend to prove that the police officer has committed a criminal offence.
- (3) Any information, statement or responses made by the accused police officer during the disciplinary inquiry may not be used in court as evidence for any criminal or civil proceedings relating to that alleged offence.

147 Recovery of fines from pay

- (1) Any fine or order for compensation to the police force imposed on a police officer may be recovered by withholding money periodically from the police officer's pay provided that the amount withheld from each pay period does not exceed one third of the total owing to the police officer for the period.
- (2) If it is necessary to recover two or more fines or compensation payments from a police officer by withholding pay, the fines or compensation are to be paid consecutively in the order in which they were imposed.
- (3) Any police officer having pay withheld pursuant to this section may apply to the Commissioner on the grounds of hardship or special circumstances, to have the periodic payment suspended or reduced.
- (4) The Commissioner may consider an application under subsection (3)

and make an order that the periodic payment amount be reduced or suspended for a period not exceeding 3 months.

148 Compensation for property loss or damage

Any police officer who wilfully, maliciously, negligently or carelessly loses or damages any record, document, equipment or police property issued or entrusted to the police officer may, in addition to any other penalty imposed, be ordered to pay compensation for the loss or damage.

149 No pay whilst absent from duty

- (1) No pay shall accrue to a police officer who is absent from duty without authorised leave for the period of unauthorised leave, whether or not any other disciplinary action is taken in relation to the absence.
- (2) Any pay or entitlements received by a police officer for the period of unauthorised leave must be repaid and may be deducted from a later pay period.
- (3) The Commissioner may authorise payment of up to two thirds of the pay on the grounds of extenuating circumstances, compassion or hardship.

150 No pay whilst serving a sentence of imprisonment

- (1) No pay shall accrue to a police officer who has been sentenced to a term of imprisonment by a court for the duration of the court imposed sentence.
- (2) For the purposes of this section, a sentence of imprisonment includes a suspended sentence.
- (3) The Commissioner may authorise payment of up to two thirds of the pay on the grounds of extenuating circumstances, compassion or hardship.

PART 6 FIRE AND RESCUE SERVICE

151 Establishment of Fire and Rescue Service

The Fire and Rescue Service is established as a division of the Royal Solomon Islands Police Force.

152 Appointment of Director

The Fire and Rescue Service shall consist of a Director of the Fire and Rescue Service and such other ranks and positions as determined by the Commissioner.

153 Functions of the Fire and Rescue Service

The functions of the Fire and Rescue Service are:

- (a) to provide fire suppression services;
- (b) to provide fire prevention services;
- (c) to provide land based rescue services;
- (d) to respond to hazardous materials incidents;
- (e) to provide initial emergency health care and transport to medical facilities for accident victims and sick and injured persons;
- (f) to provide policing services and other functions conferred on Police Officers by or under this Act or any other Act: and
- (g) to do anything incidental to the exercise of those functions.

154 Exercise of powers

The Director of the Fire and Rescue Service or the officer in command may exercise the following powers when carrying out the Fire and Rescue Service functions:

- (a) control and direction of all persons present at the fire or emergency;

- (b) enter on land, and if necessary, break into any building, premises, vehicle, aircraft or vessel to extinguish a fire, limit the effect of a fire or emergency or for the purpose of performing any necessary inspections or investigations for the purpose of ascertaining compliance with this or any other Act or Regulations;
- (c) remove any flammable, dangerous or explosive material found in any building, premises, vehicle, aircraft or vessel;
- (d) cause or order any building, structure, vehicle, vessel or aircraft to be wholly or partially demolished, destroyed, removed, sunk or damaged to extinguish a fire, to limit the effect of a fire or emergency or if it is necessary to preserve life or property;
- (e) cause water or other utilities including electricity, gas, oil or other substances to be shut off in order to obtain a better supply of water for extinguishing a fire or for limiting the effects of any fire or emergency;
- (f) take water from any source without limitation, including rivers, dams, lakes, swimming pools, tanks and water storage areas;
- (g) cause any street, private road, right of way or thoroughfare in the vicinity of any fire or emergency to be closed during the emergency;
- (h) remove any person who hinders or interferes with the operations of the Fire and Rescue Service;
- (i) take any reasonable action or precaution to render first aid to sick and injured persons and to transport sick or injured persons to a medical facility;
- (j) take any action or precaution which is reasonably necessary for the prevention or suppression of fire, for rendering safe any hazardous material, and
- (k) take any reasonable action or precaution for the safe and effective conduct of a rescue or to limit the effects of any emergency for the purpose of preserving life or property.

155 Offences relating to the Fire and Rescue Service functions

Any person who:

- (a) interferes with a fire alarm without lawful excuse;
- (b) gives or attempts to give a false alarm of fire;
- (c) knowingly damages a fire plug or fire hydrant;
- (d) covers, encloses or conceals a fire plug or fire hydrant;
- (e) removes any marks or sign used for indicating the position of any fire plug or fire hydrant;
- (f) blocks or obstructs any fire exit from a building or structure;
- (g) being the owner or occupier of a building, fails to ensure that fire exits are free of obstruction; or
- (h) fails to comply with a risk abatement notice within the time specified,

is guilty of an offence and liable to a penalty not exceeding 3000 penalty units or 3 months imprisonment.

156 Risk abatement order

The Director of the Fire and Rescue Service may serve a risk abatement order on an owner or occupier of land in respect of anything on the land which may constitute a danger to life and property from the threat of fire or other emergency if the Director of the Fire and Rescue Services believes that risk abatement is necessary to protect life or property.

157 Contents of risk abatement order

A risk abatement order must be in the prescribed form and must set out the steps or actions the owner or occupier must take to remove or minimise the threat of fire within a specified time period.

158 Breach of risk abatement order

Subject to this Part, a person who has been served with a risk abatement order must comply with the order within the time specified. A person who fails to comply with a risk abatement order commits an offence and on conviction is liable for a penalty not exceeding 3000 penalty units or three months imprisonment.

159 Service of risk abatement order

A risk abatement order must be served on the owner or occupier by:

- (a) service in accordance with the *Solomon Islands Courts (Civil Procedure) Rules 2007*,
- (b) personal service on the owner or occupier, or
- (c) leaving it at the usual or last known residential or business address of the owner or occupier with a person who is apparently over the age of sixteen years and is apparently a resident or employee at the premises.

160 Objection to risk abatement order

- (1) A person who has been served with a risk abatement order may lodge an objection with the Director of Fire and Rescue Service in the prescribed form with 14 days of service.
- (2) Within 14 days of the lodgement of an objection to a Risk Abatement Order, the Director of Fire and Rescue Service must consider the objection and:
 - (a) confirm the risk abatement order,
 - (b) vary the risk abatement order, or
 - (c) withdraw the risk abatement order.
- (3) The risk abatement order may only be withdrawn if the Director of Fire and Rescue Service is satisfied that the order is not necessary to protect life or property.

161 Appeal to High Court

- (1) If the person who lodged the objection is not satisfied with the decision of the Director of the Fire and Rescue Service or the objection is not determined within 14 days of lodgement, the person may appeal to the High Court.
- (2) When considering the appeal, the High Court must take into account the relevant circumstances including the degree of the threat to life and property and any other means available to abate the danger.
- (3) After considering the appeal, the High Court may:
 - (a) confirm, vary or cancel the order, or
 - (b) make any other orders that the Court considers necessary to abate the threat of fire or emergency.

162 Inspection of premises

The Director of Fire and Rescue Service may undertake an inspection of any premises to determine whether fire escape, fire suppression or fire detection systems or equipment are present and functional. If the Director of Fire and Rescue Service determines that the systems or equipment are insufficient to ensure the safety of the building occupants or the property, the Director of Fire and Rescue Service must:

- (a) serve a risk abatement notice, or
- (b) report any non-compliance to the relevant authority with responsibility for the regulation of building or construction works.

163 Removal of fire hazard

- (1) The Director of Fire and Rescue Service may remove or abate fire hazards to prevent the occurrence or threat of a fire or emergency.
- (2) The Commissioner of Police may charge the owner or occupier a fee for the abatement work at the prescribed rate.

PART 7 POLICE MARITIME DIVISION

164 Establishment of Police Maritime Division

The Police Maritime Division is established as a division of the Royal Solomon Islands Police Force.

165 Appointment of Police Maritime Division Commander

- (1) The Police Maritime Division shall be commanded by the Commander, Police Maritime Division.
- (2) The Commander Police Maritime Division is responsible for the safe and efficient operation of the Police Maritime Division, including all vessels and shore units.

166 Constitution of the Division

The Police Maritime Division shall consist of a Commanding Officer for each vessel and such other ranks and positions as may be determined by the Commissioner.

167 Responsibilities of Commanding Officers

- (1) The Commanding Officer of a Police Maritime Division vessel has the responsibility for:
 - (a) the operational efficiency, logistics and maintenance of the vessel;
 - (b) the safety of the vessel and any persons on board the vessel;
 - (c) the conduct and discipline of police officers and other persons on board the vessel;
 - (d) reporting of defects in equipment; and
 - (e) the safe navigation of the vessel.
- (2) Police Maritime Officers shall:
 - (a) follow instructions and standing orders issued by the Commander or Commanding Officer or officer in command; and

- (b) maintain their qualifications, skills and knowledge

168 Functions of the Police Maritime Division

The functions of the Police Maritime Division include:

- (a) maritime surveillance;
- (b) maritime search and rescue;
- (c) law enforcement activities;
- (d) medical evacuation;
- (e) security and transportation for local and foreign dignitaries; and
- (f) such other activities that may be prescribed in times of emergency.

169 Exercise of powers

The Commander of the Police Maritime Division, the Commanding Officers of each vessel and all police officers may exercise any of the following powers when carrying out Police Maritime Division functions:

- (a) the powers set out in Part 4 of this Act for any purpose relating to policing and law enforcement;
- (b) the powers set out in Part 6 of this Act for any purposes relating to fire suppression and fire prevention;
- (c) board any vessel and inspect any licences, certificates, documents or records relating to the vessel or the persons on the vessel that are required by any law;
- (d) board any vessel and enter any shore facility and therein exercise any powers that may be exercised by customs officers under the *Customs and Excise Act* (Cap. 121);
- (e) without a search warrant enter upon or into any vessel and exercise any powers that may be exercised by immigration officers under the *Immigration Act* (Cap.60);

- (f) stop, board and search any fishing vessel or enter any fish processing establishment and exercise any power that may be exercised by an authorised officer under the *Fisheries Act* (Cap 38); and
- (g) any other powers that may be exercised by a police officer under any other law.

PART 8 EXTERNAL RELATIONS

170 Definitions

In this Part:

“foreign police officer” means a police officer from a prescribed country or territory deployed to Solomon Islands to assist the police force;

“foreign posting” means the temporary deployment or exchange of one or more police officers to a prescribed foreign country or territory for the purpose of working in or with the police or other law enforcement agency of the country or territory;

“outside deployment” means the deployment of a police officer outside Solomon Islands in a United Nations activity, foreign posting or overseas operation;

“overseas operation” means a person or group of people that are authorised by the Prime Minister to participate in duties outside Solomon Islands involving peace keeping, the maintenance or restoration of law and order or functioning government institutions, or any other activity in respect of which the Government of Solomon Islands wishes to provide assistance but does not include a United Nations activity;

“United Nations activity” means any employment taken outside Solomon Islands by a police officer with the United Nations.

171 Power to order service outside Solomon Islands

- (1) The Commissioner may authorise a police officer to engage in an overseas operation, United Nations activity or a foreign posting.

- (2) The Prime Minister may, by Regulation, prescribe the foreign countries or territories where Solomon Island police officers may be deployed.

172 Punishment in foreign country

- (1) If a police officer on an overseas operation or foreign posting does or omits to do an act that, if it occurred in Solomon Islands, would be a breach of Solomon Islands law, this Act, the regulations or the Code of Conduct, the police officer may be dealt with as if the act or omission had occurred in Solomon Islands.
- (2) If a police officer on an overseas operation or a foreign posting commits an offence under the law of the foreign territory or country, or any provisions of Solomon Islands law applied by the law of the country or territory and is punished for the offence, the officer shall be deemed to have been punished in Solomon Islands for the same or similar offence committed in Solomon Islands.

173 Deployment of foreign police officers

- (1) The Prime Minister may request and authorise foreign police officers from prescribed countries or territories to be deployed in Solomon Islands for the purpose of assisting the police force.
- (2) Foreign police officers shall be under the command of the Commissioner or any other police officer, including a foreign police officer, authorised by the Prime Minister.
- (3) Foreign police officers shall have the powers, duties, protections and responsibilities to perform the duties of police officers of equivalent rank in the police force.
- (4) The law of the home jurisdiction of a foreign police officer relating to discipline, punishment or terms and conditions of service shall apply in Solomon Islands to the extent that circumstances permit.
- (5) Where the law of the home jurisdiction of a foreign police officer confers jurisdiction on a court in that country, such jurisdiction may be exercised by a court with comparable jurisdiction within Solomon Islands.

174 Leave for outside deployment

- (1) A police officer authorised to undertake duty outside Solomon Islands under this Part, may be granted leave of absence without pay for the duration of the outside deployment.
- (2) The Commissioner may determine whether the period of outside deployment shall be counted as a period of service in the police force.
- (3) The Commissioner may fill the position of a police officer who is granted leave for outside deployment and declare the officer unattached.
- (4) When an unattached police officer returns to Solomon Islands from outside deployment, the police officer shall be appointed to a position not lower than his or her former rank when a suitable position becomes available.

175 Relationship to Facilitation of International Assistance Act 2003

The provisions of this Part shall not affect the deployment of a visiting contingent operating by order of an international assistance notice issued and currently in operation pursuant to the provisions of the *Facilitation of International Assistance Act 2003*.

PART 9 OFFENCES

176 Prosecution for offences

- (1) Nothing in this Act shall prevent or exempt any prosecution of a person in respect of an offence under this Act or any other Act or the imposition of a higher penalty provided by any other Act for an offence provided that no person shall be punished by a court more than once for the same offence.
- (2) Nothing in this Act shall prevent or exempt a police officer from being prosecuted for a criminal offence and being subject to disciplinary proceedings under this Act concurrently for the same conduct provided that any court or disciplinary tribunal takes into account any penalty or punishment imposed by the other court or tribunal for the

same conduct.

177 False name and address

- (1) Any person who is lawfully requested by a police officer in the execution of police duties must provide identifying information including his or her name and address.
- (2) Any person who fails to provide identifying information or provides false or misleading information requested by a police officer under subsection (1) commits an offence and is liable on conviction to a maximum penalty of 5000 penalty units or six months imprisonment.

178 Gaining employment by false representation

Any person who makes a false or misleading representation or submits a false or misleading document when applying for any employment with the police force, including recruitment, transfer and promotion, commits an offence and is liable on conviction to a penalty not exceeding 5000 penalty units or six months imprisonment.

179 Refusing to provide forensic sample

Any person who:

- (a) refuses to undergo a forensic procedure when lawfully obliged to do so under the provisions of this Act;
- (b) knowingly provides a false sample, a contaminated sample or a sample obtained from another person or thing; or
- (c) obstructs, resists, hinders, uses violence against, threatens or intimidates a person in connection with the carrying out of forensic procedures,

commits an offence and is liable on conviction to a penalty of 5000 penalty units or six months imprisonment or both.

180 Improper use of identifying information

Any person who uses or accesses identifying information obtained by a police officer in the course of police duties without authorisation under this Act or any other law, commits an offence and is liable on

conviction to a penalty not exceeding 10,000 penalty points or 12 months imprisonment.

181 Failure to attend disciplinary hearing

- (1) Any person who has been served with a summons to attend a disciplinary hearing and, without lawful excuse:

- (a) fails to attend at the time and place specified in the summons;
- (b) fails to attend on any adjournment date; or
- (c) fails or refuses to answer any question put to the person

shall be guilty of an offence and be liable on conviction to a maximum penalty of 1,000 penalty units or 1 month imprisonment or both.

182 Failure to return police property

- (1) Any former police officer who fails to deliver up any police property including evidence of appointment, arms, weapons, equipment, police uniform and other appointments or property in their custody which was given to the former member for the purposes of carrying out official duties as a member of the police force commits an offence and shall be liable on conviction to a maximum penalty of 3,000 penalty units or three months imprisonment.
- (2) A magistrate or judge may issue a warrant to any police officer to search for and seize all or any such property in the custody of a former police officer which has not been delivered as required by this Act.

183 Possess police property

Any person who:

- (a) has possession of police property without lawful authority or excuse,
- (b) knowingly purchases or receives police property, or
- (c) aids or abets any person in selling or disposing of police property

commits an offence and is liable on conviction to a penalty not exceeding 5,000 penalty units or six months imprisonment.

184 Use of police weapons

- (1) Any person who, without lawful authority or excuse, uses a police firearm commits an offence and is liable on conviction to a maximum penalty of 100,000 penalty units or ten years imprisonment or both.
- (2) Any person who, without lawful authority, uses a police weapon other than a firearm commits an offence and is liable upon conviction to a maximum penalty of 50,000 penalty units or five years imprisonment.

185 Possess police weapons

Any person who, without lawful authority or excuse, possesses police weapons commits an offence and is liable on conviction to a maximum penalty of 50,000 penalty units or five years imprisonment.

186 Failing to help police officers

- (1) Any police officer in the lawful execution of his or her duty may, if it is reasonably necessary in the circumstances, ask a person over the age of eighteen years to aid or assist the officer to arrest or secure any person or to convey any person in the police officer's charge to a police station or other place.
- (2) Any person who, without reasonable excuse, fails to aid or assist a police officer when asked commits an offence and is liable to a maximum penalty of 2,000 penalty units.

187 Giving false information

Any person who gives false information to a police officer with the intent to delay, pervert or defeat the administration of justice commits an offence and is liable on conviction to a maximum fine of 10,000 penalty units or 1 year imprisonment or both.

188 Making false report

Any person who knowingly makes or causes to be made a false report of the commission of an offence or misleads any police officer by giving false information or making false statements or accusations

commits an offence and is liable on conviction to a maximum penalty of 10,000 penalty units or 1 year imprisonment or both.

189 Offences at a crime scene

Any person who:

- (a) tampers with a crime scene or tampers with any evidence or potential evidence at a crime scene; or
- (b) hinders or obstructs a police officer or who refuses to obey any lawful direction issued by a police officer at a crime scene,

commits an offence and is liable on conviction to a penalty of 10,000 penalty units or 1 year imprisonment or both.

190 Assault on police officer

Any person who assaults or resists any police officer acting in the execution of his or her duty or aids, abets or incites any person to assault or resist a police officer commits an offence and is liable on conviction to a maximum penalty of 50,000 penalty units or 5 years imprisonment or both.

191 Strikes or lockouts

(1) Any police officer who:

- (a) participates in a strike or lockout;
- (b) participates in a campaign to withhold or limit his or her services; or
- (c) becomes a member of a trade union

commits an offence and is liable on conviction to a maximum penalty of 3,000 or 3 months imprisonment.

(2) Nothing in this section prevents a police officer from forming or joining an approved Police Association, one of the purposes of which may be to represent the collective interests of police officers.

192 Inducing strikes

Any person who induces, causes, initiates or aids and abets a police officer to participate in:

- (a) a strike or lockout;
- (b) a campaign to withhold or limit the provision of services;
- (c) a breach of discipline; or
- (d) a trade union,

commits an offence and is liable on conviction to a maximum penalty of 20,000 penalty units or 2 years imprisonment.

193 Offensive behaviour in police premises

Any person who behaves in an offensive, indecent, disorderly or riotous manner in:

- (a) a police station;
- (b) police post;
- (c) police cell;
- (d) police housing; or
- (e) any part of a police compound or police premises or property where members of the public may be present,

commits an offence and is liable on conviction to a maximum penalty of 2,000 penalty units or two months imprisonment.

194 Accepting bribes

Any police officer or specialist staff who accepts or demands any money or other benefit as an inducement to do or refrain from doing any act in the execution of their duty or in the performance of any function on behalf of the police force commits an offence and is liable on conviction to a maximum penalty of 3 years imprisonment.

195 Offering bribes

Any person who gives or offers to give money or any other benefit to a police officer or to any person performing functions on behalf of the police force as an inducement to do or to refrain from doing any act in the execution of the person's duties commits an offence and is liable on conviction to a maximum penalty of 30,000 penalty units or 3 years imprisonment or both.

196 Impersonating police officer or police vehicle

Any person who is not a police officer who:

- (a) pretends to be a police officer by words, conduct or demeanour;
or
- (b) uses the name, designation or description of a police officer; or
- (c) uses a police uniform, police property, vehicle or vessel or any item that resembles police property,

in circumstances likely to lead a person to believe that the person is a police officer commits an offence and is liable on conviction to a maximum penalty of 30,000 penalty units or 3 years imprisonment or both.

197 Use of police name in action or activity

Any person who, without lawful excuse, carries on an activity or acts in a manner that is likely to lead a person to believe that the activity is endorsed or authorised by the police force commits an offence and is liable on conviction to a maximum penalty of 20,000 penalty units or two years imprisonment or both.

198 Unlawful dealings with prisoners

Any person who, without lawful excuse or the permission of a police officer:

- (a) has any restricted communication with a prisoner in the custody or charge of a police officer; or
- (b) delivers anything or causes anything to be delivered to a

prisoner,

commits an offence and is liable on conviction to a maximum penalty of 3,000 penalty units or 3 months imprisonment.

199 Escaping from custody

Any person who is in lawful custody and escapes, or attempts to escape commits an offence and is liable on conviction to a fine of 10,000 penalty units or 12 months imprisonment.

200 Disobey lawful order or direction

Any person who opposes or disobeys a lawful order or direction given by a police officer in the performance of his or her duty under the provisions of this or any other Act commits an offence and is liable on conviction to a penalty of 5,000 penalty units or six months imprisonment or both.

201 Killing or injuring police animals

Any person who intentionally kills, maims, wounds or otherwise harms or injures a police dog, police horse or any other prescribed police animal commits an offence and is liable on conviction to a maximum penalty of 20,000 penalty units or 2 years imprisonment.

202 Use of and access to information

Any person who uses or accesses any police database, document, record, identifying information or forensic sample where:

- (a) the use is not permitted under this Act or any other law; and
- (b) the use is not for authorised police or law enforcement purposes,

commits an offence and is liable on conviction to a penalty of 30,000 penalty units or 3 years imprisonment or both.

PART 10 MISCELLANEOUS

203 Police Band

- (1) The Royal Solomon Island Police Force Band is established by this section.
- (2) The Royal Solomon Island Police Force Band is to consist of members of the Royal Solomon Island Police Force.
- (3) The Royal Solomon Island Police Force Band may charge the fees prescribed by regulation for its services.

204 Political activity

- (1) No police officer shall take part in any political activity.
- (2) For the purposes of this section, “**political activity**” means:
 - (a) standing as a candidate for election to the National Parliament, any Provincial Government or any Local Government Council;
 - (b) managing, organising, or undertaking campaign duties for a candidate in any National, Provincial or Local Government election; or
 - (c) possessing, storing, producing or distributing any campaign material in a police station, police post or police cell.
- (3) Any police officer who intends to engage in political activity must resign from the Force and must not commence political activity until his or her resignation has been approved by the Commissioner.
- (4) Nothing in this section prevents police officer from being elected or appointed to a position in a non-profit organisation, church, cultural, sporting, tribal, community or social group.

205 Secondary employment

- (1) Except with the permission of the Commissioner, a police officer must not:
 - (a) accept or continue to hold an office in or under any

Government, Provincial or Local Government organisation;

- (b) accept or continue to hold or discharge the duties of, or be employed in a paid position in connection with any banking, insurance, agriculture, mining, fishing, forestry, hotel, casino, mercantile or other commercial business whether carried out by a corporation, business, firm or individual;
 - (c) engage in or undertake any such business as a principal or agent;
 - (d) engage or continue in the private practice of a profession or trade, or enter any employment whether remunerative or not, with any person, company, firm or business who is so engaged; or
 - (e) accept or engage in any remunerative employment or otherwise that conflicts with his or her duties in the police force.
- (2) Subsection (1) does not prevent a police officer from becoming a member or shareholder of an incorporated company or society registered under Solomon Islands law or elsewhere providing that the police officer does not take part in the conduct of any business of the company or association other than exercising the right to vote.
- (3) Notwithstanding subsection (1) a police officer may, with the consent of the Commissioner, act as a director or shareholder of a co-operative company or a company formed to control, manage, or deal with customary land or customary rights or interests in which the police officer has rights or interests.
- (4) The Commissioner may, at any time, withdraw permission given under this section if the Commissioner determines that it is not in the best interests of the police force for the officer to continue in the permitted activity or employment.

206 Trade Union Activity

No police officer shall be a member of a trade union within the meaning of the *Trade Unions Act* (Chapter 76)

207 Police officers' Association

- (1) The Minister may, by regulation, establish and provide for the regulation of a Police Officers' Association which shall be independent from any person or organisation outside of the police force.
- (2) The Police Officers' Association may provide:
 - (a) welfare services;
 - (b) social and recreational services and activities;
 - (c) cultural services and activities;
 - (d) advocacy services to bring issues relating to employment, conditions of service, occupational health and safety and other workplace issues to the attention of the Commissioner, the Minister and the National and Provincial Governments.

208 Lost property

- (1) Every police officer shall take charge of impounded, lost, found and unclaimed property found by, or handed to the officer and deliver the property to the officer in command of the nearest police station or post.
- (2) Where any property that has come into the possession of a police officer pursuant to this section:
 - (a) is a perishable article;
 - (b) is of such nature that its custody involves unreasonable expense or inconvenience; or
 - (c) remains unclaimed for three months,the Commissioner may direct the manner in which the property may be sold, destroyed or otherwise disposed of.
- (3) Any unclaimed money that has come into police possession must be paid into the Consolidated Fund.

- (4) The proceeds of any sale under subsection (2) must be paid into the Consolidated Fund.

209 Disputed property

- (1) Subject to subsection (2) whenever a police officer has taken possession of any property or chattel and it is doubtful:
 - (a) whether any person claiming the property; or
 - (b) which of any two or more persons claiming the propertyis entitled to possession of the property, a Magistrate, on the application of any police officer may make an order for the delivery of the property to any person entitled to possession of it.
- (2) Subsection (1) does not apply to property taken or held under the warrant of a Magistrate or a judge.
- (3) If the owner or person entitled to possession cannot be ascertained after a Magistrate's court hearing, the Magistrate may make such order with respect to possession or disposal as the Magistrate thinks fit.
- (4) If, after the making of an order under this section, an action is commenced against any member of the police force for the recovery of the property, the order and the delivery of the property under the order may be produced in evidence and shall be a bar on the action.
- (5) No order or delivery under subsection (4) shall affect the right of any person entitled by law to the possession of the property to recover possession if this can be lawfully done.

210 Police Fund

- (1) There shall be established a Fund known as the Police Fund.
- (2) The Police Fund shall consist of all revenue received from:
 - (a) donations offered to the Fund and accepted by the Commissioner; and
 - (b) such sums as may be voted by the National Parliament.

211 Administration of Police Fund

- (1) The Police Fund shall be administered by the Commissioner and shall be applied for purposes relating to police officers, police work and police services including:
 - (a) making payments to assist the families of deceased police officers and police officers discharged as medically unfit;
 - (b) expenditure for organising and providing sporting, cultural, educational or recreational activities for police officers and their families;
 - (c) any other purpose at the request of the Commissioner which is of benefit to the police force or assists the welfare of police officers; and
 - (d) any purpose which facilitates the development of close working relationships with chiefs, community leaders, religious leaders, community members and the police force.
- (2) Upon commencement of this Act, all money in the Police Fund constituted by the *Police Act* (Cap.110) repealed by this Act shall be deemed to be transferred to and shall form part of the Police Fund constituted by this Act.

212 Protection for officers acting in good faith

The Government, the police force, a police officer or any person performing any function or duty or exercising any power under the Act shall not:

- (a) be subject to any action, claim or demand; or
- (b) be liable for any matter or thing done or omitted to be done in good faith in the performance of any function or duty or in the exercise of any power under this Act.

213 Protection for persons assisting police

Any person who assists a police officer after being requested to do so by a police officer shall be considered to have the rights and protection afforded to a police officer under the provisions of this or

90

any other Act.

214 Protection for execution of court processes

- (1) Where an action is brought against any police officer, authorised officer or specialist employee of the police force for any act done in obedience to a warrant, order or process of any court, tribunal, panel or person exercising a judicial function, the police officer, authorised officer or specialist employee shall not be responsible for any irregularity in the issuing of the warrant, order or process or for lack of jurisdiction in the issuing authority.
- (2) The court shall, upon production of the warrant, order or process containing the signature of a judge, magistrate, tribunal or panel member or court official, or the seal of a court, tribunal or panel and upon proof that the act complained of was done in obedience to such warrant, enter judgment in favour of the Government, the police force, police officer, authorised officer or specialist employee.
- (3) No proof of the signature or proof of the seal is required unless the court has reason to doubt the genuineness of the signature, seal or document.
- (4) If the court is satisfied that the signature, seal or document is not genuine, judgment shall be given in favour of the Government, police force, police officer, authorised officer or specialist employee if it is proved that at the time the act complained of was committed, the person believed on reasonable grounds that the signature, seal or document was genuine.

215 Special police services

- (1) The Commissioner may direct any police officer, authorised officer or specialist employee to perform special police services in any place, premises, business, vehicle, aircraft or vessel at the request of the occupier or owner.
- (2) All use of police personnel, services or equipment for special police services must be approved in advance by the Commissioner and will only be approved if the use does not compromise operational effectiveness or the safety and security of police or the community.

216 Fees for special police services

- (1) The Minister may prescribe fees for the use of police services and equipment where the service supplied are, in the opinion of the Commissioner:
 - (a) additional to the services required to be rendered in the ordinary course of the functions of the police force; or
 - (b) services of a commercial or private nature performed at the request of an individual, firm or corporation.
- (2) Fees for special police services are to be paid into the Consolidated Fund.

217 Scale of fees

Fees may be prescribed and charged for special police services including:

- (a) police officers;
- (b) specialist officers;
- (c) Police Brass Band;
- (d) Police String Band;
- (e) fire trucks;
- (f) fire inspection and compliance services;
- (g) explosive ordinance clearance;
- (h) police record checks and certifications;
- (i) fingerprint search;
- (j) police boats and Police Maritime Patrol boats;
- (k) enforcement and prosecution of legislation from prescribed Ministries;

- (l) using police equipment;
- (m) using police premises; and
- (n) any other services prescribed by the Minister.

218 Regulations

The Minister may make regulations for the good order and governance of the police force and all matters that are required or permitted under this Act or are reasonably necessary or convenient to prescribe and for carrying into effect any of the purposes or provisions of this Act including:

- (a) the ranks and grades of police officers;
- (b) duties functions and conditions of service for the police force;
- (c) guidance in the discharge of duties;
- (d) pay, retirement benefits and allowances;
- (e) regulating discipline and disciplinary offences and the procedures for inquiries against discipline;
- (f) making provision for additional disciplinary offences;
- (g) providing penalties for breach of any regulation not exceeding 5,000 penalty units or 6 months imprisonment;
- (h) procedures and qualifications relating to recruitment, probation, appointment, deployment, promotion, leave and conditions of employment;
- (i) taking of oaths by officers;
- (j) the allocation of positions, roles and duties with the police force;
- (k) description, issue and use of accoutrements, police uniforms and any other police property to be supplied under this Act;
- (l) specifying the type of weapons that may be used by police;

- (m) specifying what surveillance devices may be used by police officers;
- (n) the circumstances where weapons may be issued or used;
- (o) the training requirements for the use of weapons;
- (p) the storage, record keeping and reporting requirement for police weapons;
- (q) identity documents for police officers and the police force including crests, badges, emblems and distinguishing articles;
- (r) forms for the issue of warrants;
- (s) special allowances for police officers;
- (t) fees for police services;
- (u) fees for the enforcement and prosecution of matters from prescribed Ministries;
- (v) nominating Ministries required to pay a fee for the use of policing services;
- (w) listing the foreign countries or territories where Solomon Island police officers may serve;
- (x) the control, administration and application of the Police Fund; and
- (y) anything required to be prescribed by this Act.

219 Police may appear in court by other police

A police officer or specialist employee who is to appear in any court, tribunal, panel, board, Commission or committee in Solomon Islands (other than as a witness) in the execution of his or her duty may appear by another police officer or specialist employee

220 Evidentiary provisions

In any proceedings, the Commissioner may certify that at a specified

time:

- (a) any animal named in the certificate was a police animal;
- (b) any police document, certificate or police record is a genuine police document, certificate or record;
- (c) any particular crest, badge, emblem, item of equipment, vehicle, aircraft or vessel was police property; and
- (d) any police uniform or other distinguishing item was a police uniform or item,

and the Commissioner's certificate is sufficient evidence of the matters in the absence of proof to the contrary.

221 Repeal of the Police Act

The *Police Act* (Cap. 110) is repealed.

222 Continuation of previous police force

All persons who at the commencement date are officers and employees of the Royal Solomon Islands Police Force shall continue to hold their office or remain in their employment at the same rank and grade in the police force or the public service and shall be subject to the provisions of this Act.

223 Police Act proceedings

Any proceedings for an offence under the *Police Act* (Cap. 110) that were pending before any court immediately before the commencement of this Act are to continue as if the *Police Act* (Cap. 110) had not been repealed.

224 Proceedings for breach of discipline

- (1) Proceedings for a breach of discipline that were commenced under the *Police Act* (Cap. 110) and were pending at the commencement of this Act may be continued as if this Act had not been enacted.
- (2) An interdiction, suspension or reduction in pay or emoluments that was in force immediately before the commencement of this Act

continues in force after the commencement of this Act according to its terms but may be varied, amended or revoked as if it were a suspension, interdiction or reduction in pay or emoluments under this Act.

- (3) In this section, a reference to proceedings includes a reference to any review or appeal in relation to the proceedings.

225 Actions and instruments

- (1) In this section, “**instrument**” includes an approval, authorisation, certificate, classification, declaration, delegation, determination, direction, identity card, order, notice, permission, policy, procedure, proclamation, recommendation, warrant or other instrument.
- (2) Any act done, or instrument made under the *Police Act* (Cap.110) that continued to have effect after the commencement of this Act, is taken to have been done under the corresponding provision of this Act and continues to have effect in accordance with its terms but with the changes that are necessary:
 - (a) to make it consistent with this Act; and
 - (b) to adapt its operation to this Act.
- (3) The act or instrument may be varied, amended or revoked under this Act.

226 Continuation of regulations

Regulations, Commissioner’s Orders and policies made under the *Police Act* (Cap. 110) that were in effect immediately before the commencement of this Act:

- (a) continue to have effect on and after the commencement of this Act as if they had been made under this Act;
- (b) have effect only to the extent that they are not inconsistent with this Act; and
- (c) may be varied, amended or repealed under this Act.

227 Police property and facilities

Property and premises that were police property and premises immediately before the commencement of this Act continue to be police property and premises under this Act.

228 Reference to Police Act

If the context permits, a reference to the *Police Act* (Cap. 110) in an enactment or document is taken to be a reference to this Act.

FIRST SCHEDULE

(Section 30)

FORM OF OATH AND AFFIRMATION

Form of Oath

“I.....

Swear by Almighty God that I will well and truly serve (His or Her) Majesty, (Name of reigning Sovereign) (Queen or King) of Solomon Islands and will execute the powers and duties of my office honestly, faithfully and diligently without favour or affection, malice or ill-will towards any person and I will obey, uphold and maintain the laws of Solomon Islands. To the best of my power, I will seek and cause the peace to be preserved and will prevent all offences against the peace to the best of my skill and knowledge, and discharge all duties faithfully according to law.

So help me God!

Form of affirmation

“I.....

Do solemnly and sincerely affirm and declare that I will well and truly serve (His or Her) Majesty, (Name of reigning Sovereign) (Queen or King) of Solomon Islands and will execute the powers and duties of my office honestly, faithfully and diligently without favour or affection, malice or ill-will towards any person and I will obey, uphold and

maintain the laws of Solomon Islands. To the best of my power, I will seek and cause the peace to be preserved and will prevent all offences against the peace to the best of my skill and knowledge, and discharge all duties faithfully according to law.

ENDNOTES

1 KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Police Act 2013 (No. 2 of 2013)

Assent date	23 May 2013
Gazetted	1 November 2013
Commenced	1 March 2014

3 LIST OF AMENDMENTS