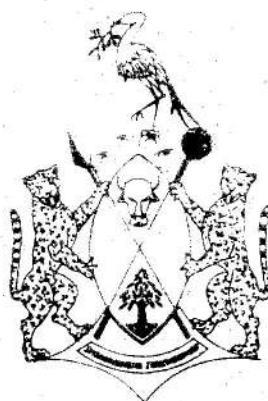


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REPUBLIC OF
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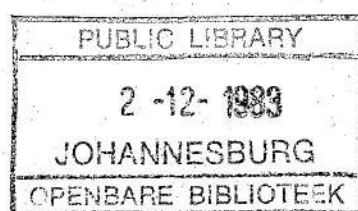
DEPARTMENT OF JUSTICE

GOVERNMENT NOTICE NO. 89

IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-

POLICE ACT, 1983

ACT NO. 32 OF 1983



POLICE ACT, 1983

ACT

To provide for the establishment, organisation, administration and control of the Ciskeian Police, to prescribe a Police Discipline Code and to provide for incidental matters.

(English text signed by the President. Assented to on 15 November 1983).

ARRANGEMENT OF ACT

CHAPTER 1: DEFINITIONS

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SCHEDULE 2

- Oath or declaration of office

SCHEDULE 3

- Police Discipline Code

SCHEDULE 4

- Laws repealed.

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:—

CHAPTER 1

DEFINITIONS

Definitions.

1. In this Act, unless the context otherwise indicates —
 - "branch" means a branch of the Force contemplated in section 4 (1) (b) and in respect of which the number and grading of posts have been determined in terms of section 4 (1) (c);
 - "calendar month" means the period extending from a day in any month to the day preceding the day corresponding numerically to that day in the following month, both days inclusive: Provided that in any month in which there is no such corresponding day, such period shall end on the last day of such month;
 - "Ciskei" means the Republic of Ciskei;
 - "commander" means the head of an office, branch, unit, institution of whatever nature, police district, police station or place of work where members of the Force are employed and includes the Commissioner and any commissioned officer under whose command any member of the Force is serving;
 - "commissioned officer" means an officer appointed or deemed to have been appointed under section 5 (1) (a);
 - "Commissioner" means the Commissioner of the Ciskeian Police appointed or deemed to have been appointed under section 5 (1) (a);

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- "fixed establishment" means the fixed establishment of the Force determined or deemed to have been determined under section 4 (1) (a);
- "functions" means police duties in general, including the duties referred to in sections 3 and 8 and all such other police functions as may be required to be performed for the achievement of the aims and objects of this Act or any other law;
- "Gazette" means the Government Gazette of the Republic of Ciskei;
- "Government" means the Government of Ciskei;
- "liquor" means intoxicating liquor and includes liquor as defined in section 1 of the Liquor Act, 1983;
- "member of the Force" or "member" means any commissioned officer, warrant officer, non-commissioned officer or constable serving in the Force in accordance with the provisions of this Act and includes, except for the purposes of any provision of this Act in respect of which the Commissioner may subject to the directions of the Minister otherwise determine, any member of the Reserve Police Force or temporary member while employed in the Force;
- "Minister" means the Minister of Justice;
- "misconduct" means any contravention of any provision of the Police Discipline Code or the commission of any other offence;
- "Police Discipline Code" means the Police Discipline Code referred to in section 28;
- "prescribed" means prescribed by or under any provision of this Act;
- "public service" means the Ciskeian public service;
- "regulation" means any regulation made or deemed to have been made under this Act and which is still in force;
- "Reserve Police Force" means any Reserve Police Force established under section 27 (1);
- "revenue" means the Ciskeian Revenue Fund referred to in section 77 (1) of the Republic of Ciskei Constitution Act, 1981 (Act 20 of 1981);
- "standing order" means a standing order contemplated in section 6 (2) (d);
- "superior" means, in addition to a superior in rank, any member of the Force who, irrespective of his superiority in service or rank, has command or exercises authority over another member;
- "temporary member" means a temporary member of the Force appointed as such in terms of section 26 (1);
- "the existing force" means the police force administered and controlled by the Government in terms of the Law Enforcement Act, 1981 (Act 5 of 1981) immediately prior to the commencement of this Act, but excluding any member of such force who retires on pension or is discharged with effect from the date of such commencement;
- "the Force" means the Ciskeian Police established by section 2;
- "this Act" includes the regulations;
- "Treasury" means the Minister of Finance and Economic Development and includes any officer in his department acting under his authority;
- "trial officer" means any commissioned officer conducting a trial under section 30;
- "uniform and equipment" means, as the case may be, the uniform, equipment, clothing, article or accoutrements of whatever nature appropriate to the rank or functions of the member of the Force concerned or members of the Force generally;
- "unit" means any number of members of the Force charged with specific functions, irrespective of the branch to which such members have been permanently appointed.

CHAPTER 2

ESTABLISHMENT AND ORGANIZATION OF THE FORCE

Establishment and composition of Ciskeian Police.

2. There is hereby established a police force to be known as the Ciskeian Police which shall consist of —
- (a) the persons constituting the existing police force;
 - (b) any members of the South African Police who on or after 4 December 1981 were or are transferred or seconded to the service of the Government, for as long as they remain in the Force; and
 - (c) such persons as may be appointed as members of the Force in terms of this Act.

General duties, powers and functions of the Force.

3. (1) The duties, powers and functions of the Force shall be *inter alia* —
- (a) the maintenance of law and order;
 - (b) the preservation of peace and good government;
 - (c) the protection of life, persons and property, including the maintenance of essential services;
 - (d) the enforcement of law and the prevention of crime;

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- (e) the investigation, and the procurement of evidence of the commission, of any offence or alleged offence;
 - (f) the detection of offenders; and
 - (g) the preservation of the internal security of Ciskei.
- (2) (a) In the time of war or other emergency the President may employ the Force or any part thereof to assist in the defence of Ciskei, whether within or outside Ciskei, and may place the Force or any part thereof, whilst it is so employed, under the orders and directions of such person as the President may appoint for the purpose.
- (b) The Force or part thereof shall, whilst it is employed as contemplated in paragraph (a), be subject to the laws governing the discipline, command and control of the permanent defence forces of Ciskei when on active or military service but shall not thereby be excluded from the provisions of this Act: Provided that no member of the Force shall be liable to be punished for an offence under this Act as well as under the aforementioned laws.

Organisation of the Force.

4. (1) Subject to the applicable provisions of the laws governing the public service, the Minister —
- (a) shall determine the fixed establishment of the Force;
 - (b) may divide the Force into such branches, units or groups as he may deem necessary;
 - (c) shall determine the functions to be exercised by, the number and grading of posts in, and the distribution of the strength of the Force among, the branches, units or groups into which the Force may have been divided under paragraph (b); and
 - (d) may establish such police stations and districts as in his opinion are necessary to enable the Force to exercise its powers or duties or to fulfil its functions under this Act or any other law and define the areas of such stations or the boundaries of such districts.
- (2) The Minister may from time to time, as circumstances may require, disestablish any police station or district or redefine the areas of such stations or the boundaries of such districts.

CHAPTER 3

STAFFING, COMMAND AND ADMINISTRATION

Appointment of members of the Force.

5. (1) Subject to the provisions of this Act and the applicable provisions of the laws governing the public service, there shall from time to time be appointed on the fixed establishment of the Force —
- (a) by the President, by commission, an officer to be styled the Commissioner of the Ciskeian Police together with such other commissioned officers as may be necessary for the effective control and administration of the Force; and
 - (b) by the Commissioner, such number of fit and proper persons as may be required to fill any vacancies in the ranks of non-commissioned officers (including warrant officers) and constables.
- (2) The Commissioner shall cause to be issued to every member of the Force a document bearing the photograph of such member and certifying that the person named therein has been appointed as a member of the Force and such document shall, if signed by the Commissioner or any commissioned officer acting under his authority, on its mere production be *prima facie* proof of such appointment.
- (3) There shall be given to every warrant officer a warrant under the hand of the Minister.

General powers, duties and functions of Commissioner.

6. (1) The power of command, superintendence and control over the Force shall vest in the Commissioner who shall exercise such power subject to the directions of the Minister.
- (2) For the purposes of the application of the provisions of subsection (1) the Commissioner —
- (a) shall be directly responsible to the Minister for the due performance by the Force of its lawful functions, for the maintenance of discipline in the Force generally, for efficient administration and for the proper use and care of all stores and equipment in the possession of the Force;
 - (b) shall, subject to the provisions of this Act, make every endeavour to ensure that the persons appointed to exercise command over the branches, units, groups, districts or stations referred to in section 4 (1) have been adequately trained for such appointment;
 - (c) may, out of funds appropriated by the National Assembly for the purpose —
 - (i) provide uniforms and equipment and stores for the Force, including firearms and ammunition; and
 - (ii) establish and maintain institutions for the training and instruction of members of the Force; and

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- (d) may from time to time issue such orders and instructions (including orders or instructions of a permanent nature to be known as standing or police orders) and do all such other things as he may deem necessary or expedient for the achievement of the aims and objects of this Act.

Responsibilities and duties of commander.

7. A Commander —

- (a) shall be answerable to the Commissioner or other officer who exercises command over him for the due performance and discharge of the duties and functions of, the proper administration, control and employment of, the maintenance of discipline in, and the safe custody and effective use of the stores and equipment on charge to, that part of the Force under his command;
- (b) shall ensure that every member of the Force under his command is at all times in possession of the prescribed uniform and equipment and that such uniform and equipment are kept serviceable;
- (c) may from time to time issue orders or instructions not inconsistent with the provisions of this Act or any orders or instructions of the Commissioner; and
- (d) shall, irrespective of his rank or seniority, be deemed to be the superior of all members of the Force over whom he exercises command, authority, control or supervision, whether permanently or temporarily.

Powers, functions and duties of members of the Force generally.

8. (1) A member of the Force —

- (a) shall exercise such powers and functions, perform such duties and be vested with such authority as by this Act or any other law, but subject to any conditions specified therein, are conferred or imposed upon, or vested in, a member of a police force or any police official;
 - (b) shall obey unconditionally and with due dispatch any lawful order given to him by his superior in the Force;
 - (c) shall carry out and comply with all orders or instructions issued in terms of section 6 (2) (d) and 7 (b) which are applicable to him;
 - (d) shall be competent to serve and execute fully and effectually any summons, warrant or other process, whether it has been directed to him personally or to any other member of the Force or to members of the Force generally; and
 - (e) may, subject otherwise to strict compliance with the applicable provisions of Chapter 2 of the Criminal Procedure Act, 1977 (Act 51 of 1977) —
 - (i) search without warrant any person, premises, vehicle, vessel or aircraft or any receptacle of whatever nature in any area inside Ciskei within a distance of five kilometres of the borders of Ciskei; or
 - (ii) search without warrant any vehicle on any public road or any receptacle of whatever nature in, or attached to, such vehicle,and may seize anything found by him upon such person or premises or on or in or attached to such vehicle, vessel or aircraft or in such receptacle, for disposal in accordance with the applicable provisions of the said Chapter 2 of the Criminal Procedure Act, 1977;
 - (f) may, for the effective discharge of any function contemplated in section 3 and notwithstanding anything to the contrary in any other law (including the common law) contained, publish or cause to be published in any manner whatsoever any photograph or sketch of any person;
 - (g) may be required generally or in any particular instance to appear for the State in any criminal case in any magistrate's court; and
 - (h) may generally exercise any other power or perform any other function which is necessary for or incidental to the attainment of the aims and objects of this Act.
- (2) For the purposes of subsection (1) (e) a member of the Force may —
- (a) by means of an appropriate indication or direction or in any other manner order the driver or person in charge of any vehicle or vessel to bring it to a stop, and
 - (b) display, set up or erect on or next to any public road such barrier or object as is reasonably necessary to bring such order to the attention of the driver of a vehicle and to ensure that the vehicle shall come to a stop.
- (3) Any person who fails or refuses to stop a vehicle or vessel in compliance with an order under subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (4) Any member of the Force who in the exercise of his powers or the performance of his duties or functions finds it necessary to enter or to pass through any place, gate, door or entrance at or in respect of which any fee, toll or charge may lawfully be demanded, shall be exempt from the payment of such fee, toll or charge in respect of himself, every person in his custody and any

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animal, means of transport or equipment which he may require or use in the exercise of his powers or the performance of his duties or functions: Provided that if such member is not in uniform he shall, if so requested by the person who may demand such fee or charge, produce to such person the certificate of appointment issued to him under section 5 (2).

- (5) A member of the Force may, after having obeyed any order as required by subsection (1) (b), demand that such order be repeated in writing and may thereafter, in the prescribed manner, submit for decision any complaint which he may have in connection therewith.

Ranks and official designations.

9. (1) The ranks in the Force (in order of precedence and superiority) and their official designations shall be as prescribed in Part A of Schedule 1.
- (2) Notwithstanding the provisions of subsection (1) a different designation may be assigned by the Minister to any member to whom a particular function has been entrusted or who exercises command over a particular district, station, area, branch, unit, group, office or other institution of the Force.
- (3) Whenever the Commissioner deems it expedient he may appoint any constable in the Force as a lance sergeant and such constable shall, while holding such rank, have the powers and authority of a sergeant in the Force and be paid such non-pensionable allowance as may be determined from time to time under the laws governing the public service.

CHAPTER 4

APPOINTMENT, PROMOTION, TRANSFER, RETIREMENT, DISCHARGE OR RESIGNATION

Conditions as to filling of posts.

10. (1) Subject to the provisions of subsection (2), no person shall be appointed as a member of the Force unless —
- (a) he is of or above the age of eighteen years and below the age of thirty-five years;
 - (b) he is able to speak, read and write, to the satisfaction of the Commissioner, the official languages of Ciskei;
 - (c) he has passed the examination for standard eight or any examination recognized by the Minister of Education to be of an equivalent or higher standard;
 - (d) he is free from any physical or mental defect, disease or infirmity which, in the opinion of the Commissioner, is likely to affect the due performance of his duties or result in his premature retirement;
 - (e) he is of good character; and
 - (f) he is at least 1,68 metres tall in his socks and has a normal chest measurement of not less than 86 centimetres.
- (2) The Commissioner may, at his discretion waive the requirements of paragraphs (a), (b), (c) or (f) of subsection (1) in respect of any candidate for appointment as a member of the Force.
- (3) Every person who wishes to enrol as a member of the Force shall —
- (a) make his application on the appropriate form and affirm under oath or solemn declaration that the particulars furnished in the application are true;
 - (b) allow his fingerprints to be taken;
 - (c) furnish proof of good character;
 - (d) submit himself to medical examination and, if necessary, radiological examination by one or more registered medical practitioners designated by the Commissioner;
 - (e) furnish satisfactory proof of his age and educational qualifications; and
 - (f) undergo such educational or aptitude tests as the Commissioner may prescribe.
- (4) Every person appointed under this Act as a member of the Force shall on enrolment take the oath, or make the declaration, of office prescribed in Schedule 2.

Enrolment of members.

11. (1) Any person appointed under this Act shall be enrolled for a probationary period of twelve calendar months reckoned from date of the oath or declaration referred to in section 10 (4): Provided that the Commissioner may at his discretion extend such probationary period from time to time but for not longer than twelve calendar months in the aggregate.
- (2) Notwithstanding the provisions of subsection (1) or anything elsewhere in this Act contained, a member may at any time during, or upon the expiry of, the probationary period referred to in subsection (1), be discharged from the Force by the competent authority —
- (a) on notice in writing of one calendar month; or
 - (b) forthwith if his conduct is unsatisfactory.
- (3) A member who is not discharged from the Force under subsection (2) shall, upon the expiry of the probationary period of his enrolment, be deemed to have been appointed permanently.

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Remuneration of members.

12. (1) Subject to the laws governing the public service, members of the Force (other than members who by agreement receive no remuneration for their services) shall be paid salaries, wages and allowances in accordance with the scales appropriate to their ranks.
- (2) Subject to the approval of the Minister acting in consultation with the Treasury —
 - (a) a member of the Force or any particular class of member may, on appointment, transfer or promotion be paid a salary or wage at a rate higher than the minimum of the applicable scale;
 - (b) a member or any particular class of member may be specially advanced within the applicable scale of remuneration;
 - (c) a member of exceptional ability or possessing special qualifications or who has rendered meritorious service or exercised extraordinary diligence or exertion in the performance of his duties may be specially advanced within the applicable scale of remuneration or may be paid a salary or wage in accordance with a higher scale or may be granted any other fitting award.
- (3) Except as provided in this Act or in any other law, the salary or wage of a member shall not be reduced unless —
 - (a) he has consented to such reduction in writing; or
 - (b) he has, in writing, requested that he be reduced in rank.

Cession or attachment of remuneration and enquiry re financial position of members.

13. (1) No member of the Force shall, except with the prior approval in writing of the Commissioner, cede to any person the whole or any part of his salary or wage or of any allowance payable to him, nor shall any such salary, wage or allowance —
 - (a) be capable of being seized or attached under or by virtue of any judgment or order of any court, other than an emoluments attachment order or an order referred to in section 11 (2) of the Maintenance Act, 1963 (Act 23 of 1963); or
 - (b) pass under or by virtue of any order made for the sequestration of the estate of such member.
- (2) (a) The Commissioner may order any member who is alleged or suspected to be in debt to an unreasonable extent or to be financially embarrassed or against whom a judgement for debt has been obtained or whose estate has been sequestrated to submit to him, as the case may be —
 - (i) a detailed and complete statement of his assets and liabilities, together with an explanation of the manner in which he incurred such liabilities and the steps which he proposes to take to remedy the position; or
 - (ii) a copy of the report by the trustee of his insolvent estate on the affairs and condition of such estate.
- (b) If, after such investigation as the Commissioner may consider necessary, it appears to him that there is a likelihood that such member will, as a result of his financial position, not discharge his functions efficiently and impartially, the Commissioner may —
 - (i) in the case of a commissioned officer, take such action as he may deem fit; or
 - (ii) in the case of any other member, deal with the matter in terms of section 21 (2) (a).

Service of member of the Force is full-time.

14. (1) A member of the Force shall place all his time at the disposal of the Government and shall not perform, or engage himself to perform, remunerated work outside his employment in the Force without the prior permission in writing of the Commissioner.
- (2) No member of the Force may claim as of right any additional remuneration in respect of any official duty which he is required by competent authority to perform, whether such duty is or is not ordinarily assigned to a member of the Force or is or is not appropriate to the rank which he holds.
- (3) No member shall, while he remains in the Force, accept nomination as a candidate for election as a member of the National Assembly or become a councillor, member or office-bearer of any municipal or township council or of any regional authority, tribal authority or community authority as defined in section 1 of the Ciskeian Authorities, Chiefs and Headmen Act, 1978 (Act 4 of 1978): Provided that nothing herein contained shall prohibit or prevent any member from serving on any sports' committee or on any church council or other religious body.

Training and instruction of members.

15. (1) A member shall —
 - (a) undergo such basic and other training and attend such courses of instruction, whether within Ciskei or without, as the Commissioner may from time to time direct; and
 - (b) for the purposes of promotion to the rank of sergeant, warrant officer or lieutenant, be obliged to pass such examinations as the Commissioner may from time to time prescribe.
- (2) For the purposes of subsection (1) (b) the Commissioner —
 - (a) may institute courses in respect of the examinations referred to therein and from time to time alter or abolish any course so instituted;

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- (b) shall determine the nature and duration of, and the requirements for admission to, any course instituted under paragraph (a), as well as the syllabus or syllabuses of such course;
 - (c) shall, where he has instituted any course under paragraph (a), cause examinations to be conducted in such courses and prescribe the minimum requirements for the successful completion by any candidate of any course or any examination;
 - (d) may prescribe the basis on which additional marks may be awarded to any candidate on the grounds of service, commendation or merit or by virtue of any academic or other qualifications already held by such candidate; and
 - (e) shall, at the conclusion of any examination, cause to be published in any orders referred to in section 6 (2) (d) a list of the names of the successful candidates in order of merit.
- (3) Nothing in subsection (2) contained shall prohibit or prevent the Commissioner from prescribing or recognizing as an examination for members of the Force any examination conducted by any educational authority or by any other police force.

Promotion of members.

16. (1) Subject to the provisions of this section, the power to promote a member of the Force shall vest—
- (a) in the case of promotion to or in commissioned rank, in the President; and
 - (b) in the case of promotion to or in non-commissioned rank, in the Commissioner.
- (2) Before any member is promoted to any vacant post by the competent authority, due regard shall be had —
- (a) to the relative qualifications, merit, efficiency and suitability of all the members eligible for promotion; and
 - (b) where the promotion is to the rank of lieutenant or any lower rank, to the position which such member occupies on the list referred to in section 15 (2) (e) of candidates who have been successful in any examination:
- Provided that the Commissioner may —
- (i) order any member who is being considered for promotion to submit himself to any medical or other examination or test;
 - (ii) promote to any non-commissioned rank any member who has not been successful in an examination contemplated in section 15 but who holds technical qualifications or is exceptionally proficient in the execution of his duties or who is otherwise worthy of special consideration.
- (3) Save in respect of such branches, posts or members as the Minister may determine or specify, but subject to the provisions of section 5 (1) (a), the promotion of a member of the Force shall take place only in the branch in which he has been permanently appointed: Provided that the Commissioner may, in terms of subsection (1) (b), promote a member to non-commissioned rank in any branch if he is satisfied that such member —
- (a) complies with the requirements prescribed for the branch in question;
 - (b) is capable of performing the functions of that branch; and
 - (c) is willing to be transferred permanently to that branch.

Transfer or secondment.

17. (1) Notwithstanding anything in section 16 (3) contained but subject to the provisions of section 5 (1) (a) a member of the Force may, whenever the public interest or the exigencies of the Force so require, be transferred by the Commissioner from the post or appointment held by him to any other post or appointment, or be employed in any post, whether such post or appointment is in the branch in which he is ordinarily employed or in any other branch.
- (2) (a) A member of the Force may, with his consent, be seconded for a particular service or for a period of time to the service of any other Government or of any institution, board, body or person.
- (b) Any such secondment shall be subject to such conditions (including any condition prescribed by or under any other law) as may be determined by the Minister in consultation with the Treasury.
- (c) A member of the Force so seconded shall remain subject to the provisions of this Act and the person who is in charge of such member or is head of the office, institution or place at which such member performs duty shall be deemed to be his superior.
- (3) Any member of the Force employed outside Ciskei shall remain subject to the provisions of this Act.

Dress, uniform and equipment.

18. (1) The distinctive badges and buttons and badges of rank of the Force shall be as prescribed in Part B of Schedule 1 and the nature and size thereof, as well as the material from which the same shall be manufactured, shall be as determined from time to time by the Commissioner.

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- (2) Subject to the provisions of this section, a member of the Force shall —
 - (a) on enrolment be supplied at public expense with such uniform and equipment appropriate to his rank as may be necessary for the proper execution of his duties;
 - (b) at all times keep such uniform and equipment in his possession and maintain it in a clean and serviceable condition, and if he loses it replace it, at his own expense;
 - (c) when so ordered by his commander, replace at his own expense any unserviceable uniform and equipment; and
 - (d) if he is required to perform duty in mufti, provide suitable mufti himself.
- (3) The kind, quality, model, design or pattern and the number or quantity of the articles of uniform and equipment which a member shall possess and maintain in connection with the discharge of his functions, and the times of issue and the period of serviceability of such articles of uniform and equipment, shall be determined by the Commissioner from time to time with due regard to the rank and functions of such member.
- (4) (a) Any member who resigns from the Force within twelve calendar months of his enrolment or who is discharged under section 11 (2) shall restore to the Government the uniform and equipment supplied to him under subsection (2) of this section and such uniform and equipment shall, if it is not suitable for further use in the Force, be sold to best advantage and the proceeds paid to revenue.
(b) If the member concerned fails to restore any uniform and equipment as required by paragraph (a), such proportion of the cost thereof as the Commissioner may determine shall be recovered by the Government from any moneys owing to such member.
- (5) The Commissioner shall cause to be supplied to a member against repayment any uniform and equipment which such member is obliged to purchase or to replace and the cost thereof shall be recovered from the salary or allowances of such member in reasonable instalments or, in the event of his retirement or discharge, from any other moneys which may be payable to him.
- (6) The Commissioner may with the approval of the Treasury —
 - (a) refund to any member the reasonable cost of any uniform and equipment which he is obliged to acquire as a result of any change in the pattern of, or any addition to, the prescribed uniform and equipment; or
 - (b) authorize the payment to a member out of public funds of compensation, whether in full or in part, for the replacement of any uniform and equipment or the private property of such member which was unavoidably lost, damaged or destroyed in or as a result of the execution of his duties as a member of the Force or which was subjected to extraordinary wear and tear whilst he was carrying out special services.
- (7) The uniform and equipment of a member shall not be subject to attachment under any warrant of execution sued out against such member nor shall the same pass under or by virtue of any order made for the sequestration of the estate of such member.

Suspension of members.

19. (1) Subject to the provisions of subsection (6) a member of the Force may be suspended from his office (by the Minister in the case of a commissioned officer or by the Commissioner in the case of any other member) pending his trial on or after his conviction of any offence, whether under this Act or otherwise or pending any enquiry at which a charge of misconduct against him or his fitness to remain in the Force or to retain his rank is being investigated, and shall be so suspended for any period during which he is under arrest or detention or is serving a term of imprisonment, but shall not by reason of such suspension cease to be a member of the Force.
- (2) During the suspension from office of a member of the Force the powers, functions and authority vested in him as such a member shall be in abeyance and he shall not wear uniform but he shall nevertheless continue to be subject to the same responsibilities, discipline and penalties as if he had not been suspended from office.
- (3) A member of the Force who has been suspended from office shall, in respect of the period of such suspension, not be entitled to any salary, wage, allowance, privilege or benefit to which he would otherwise have been entitled as such a member but the Minister may at his discretion direct that during the period of suspension of such member, not being a period during which he is serving a term of imprisonment in pursuance of a sentence which is not set aside on appeal, there be paid to him the whole or a portion of his salary or wages and allowances or be granted to him such privileges and benefits as the Minister may direct.
- (4) If it is decided not to discharge a member of the Force who has been suspended from office, such member shall, unless the Minister has directed otherwise, in respect of the period of his suspension (not being a period of suspension during which he is serving a term of imprisonment in pursuance of a sentence which has not been set aside on appeal), be paid his full salary or wages and allowances and be granted all the privileges and benefits to which he would but for his suspen-

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sion from office have been entitled: Provided that, if such a member is reduced in rank and the Minister has made no direction as herein before mentioned, he shall in respect of such period be paid the salary or wages and allowances applicable to the rank to which he is reduced, but if in respect of such period he was in terms of subsection (3) paid any salary, wages or allowances in excess of the salary, wages or allowances applicable to the rank to which he is reduced, he shall not be obliged to refund the excess.

- (5) The Minister may delegate to the Commissioner any of the powers vested in him by subsection (3).
- (6) A member of the Force shall be suspended from office only if the misconduct of which he is alleged to be guilty is serious or if the circumstances are such that he should not be allowed to continue to exercise his powers, functions and authority.

Retirement of members.

- 20. (1) Subject to the provisions of subsection (2) and (3) a member of the Force shall have the right to retire on pension and shall be so retired with effect from the date on which he attains the age of sixty years.
- (2) A member who was or is transferred to the Force from the South African police without a break in his employment and who was appointed to the South African police prior to the first day of January 1966 shall –
 - (a) if he was so appointed prior to the twenty-fourth day of June 1955, have the right at any time before or after attaining the age of fifty-five years to give written notice to the Commissioner of his wish to retire on pension and –
 - (i) if he gives such notice not less than three months prior to the date on which he attains the said age, he shall, subject to the provisions of subsection (3), be retired on pension on attaining the said age; or
 - (ii) if he gives any later notice, he shall be retired on pension with effect from the first day of the fourth month following the month in which such notice is received; or
 - (b) if he was so appointed on or after the twenty-fourth day of June 1955, have the right at any time before or after attaining the age of fifty-eight years, to give written notice to the Commissioner of his wish to retire on pension, and –
 - (i) if he gives such notice not less than three months prior to the date on which he attains the said age, he shall, subject to the provisions of subsection (3), be retired on pension on attaining the said age; or
 - (ii) if he gives any later notice, he shall be retired on pension with effect from the first day of the fourth month following the month in which such notice is received.
- (3) Where a member of the Force attains the age at which he has the right to retire on pension, or shall be so retired, after the first day of a month, he shall, for the purposes of the application of the provisions of this section, be deemed to have attained that age on the first day of the month immediately following that month.
- (4) If it is in the public interest to retain the services of a member of the Force beyond the age at which in accordance with subsection (1) he shall be retired, his services may be so retained from time to time with the approval of the Minister for further periods which shall not, except with the approval by resolution of the National Assembly, exceed two years in the aggregate.
- (5) A member who has attained the age of fifty-five years (in the case of a male member) or fifty years (in the case of a female member) may, with the approval of the Minister be retired on pension.
- (6) Unless the Minister has directed otherwise, a female member who enters into a marriage shall be deemed to have retired voluntarily from the Force in contemplation of marriage with effect from the day of her marriage or, if she performs her duties on that day, with effect from the day following her marriage.

Discharge or reduction in rank of members.

- 21. (1) Subject to the provisions of this Act, a member shall be liable to be discharged from the Force –
 - (a) on account of continued ill-health;
 - (b) owing to the abolition of his post or any reduction in or reorganisation or readjustment of the Force;
 - (c) on account of unfitness for his duties or his incapacity to carry them out efficiently;
 - (d) if, for reasons other than his own unfitness or incapacity, his discharge will promote efficiency or economy in the Force or will otherwise be to the benefit, or be in the interests, of the Force;
 - (e) on account of misconduct; or
 - (f) in the circumstances contemplated in section 11 (2).
- (2) A member of the Force who is not a commissioned officer –

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- (a) may, subject to the provisions of this Act, be discharged from the Force or reduced in rank if, after enquiry in the prescribed manner as to his fitness to remain in the Force or to retain his rank, the Commissioner is of the opinion that he is unfit to remain in the Force or to retain his rank, as the case may be; or
- (b) may be summarily discharged from the Force if he is sentenced to imprisonment without the option of a fine.
- (3) The power to discharge a member from the Force or to reduce him in rank shall vest –
 - (a) in the case of a commissioned officer, in the President; and
 - (b) in the case of any other member of the Force, in the Commissioner.

Resignation of member.

- 22. (1) Except as provided in subsection (2) and subject to the provisions of section 23 –
 - (a) a commissioned officer (other than the Commissioner) may resign from the Force at any time with or without notice; and
 - (b) a member of the Force (other than a commissioned officer) who has served in the Force for a continuous period of twelve months or longer may resign from the Force on notice in writing of not less than one calendar month.
- (2) Except with the prior consent in writing of the Commissioner, no member of the Force shall be entitled to resign therefrom in time of war, disturbance of the peace, riot or any other emergency or apprehended emergency.
- (3) The Commissioner shall not at any time resign from the Force without the consent of the President first had and obtained.
- (4) The discharge from the Force of a member who has resigned shall be deemed to have become effective on the day immediately following the day on which such member was last available for duty at his headquarters.

Purchase of discharge by members other than commissioned officers.

- 23. (1) Notwithstanding the provisions of section 22 (1) (b) but subject to the provisions of subsection (2), a member of the Force (other than a commissioned officer) may with the prior permission in writing of the Commissioner (who is hereby authorised to grant or to refuse such permission at his discretion) purchase his discharge on payment by him to revenue –
 - (a) if he served for a continuous period of less than twelve calendar months, of such amount (not being less than ten rand for each unexpired calendar month or part thereof of the said period of twelve months) as the Minister may from time to time determine in consultation with the Treasury; and
 - (b) if he has served for a continuous period of longer than twelve months, of such lump sum (not being less than twenty rand) as the Minister may from time to time determine after such consultation as aforesaid;such payment being in lieu of the notice prescribed in the said section 22 (1) (b).
- (2) No member of the Force may purchase his discharge unless he has paid to the Government in full any amount owing by him to the Government or which is payable by the Government to any other person in respect of such member.

Certificate of discharge or of service.

- 24. Upon his discharge a member of the Force shall surrender the certificate of appointment referred to in section 5 (2) and shall receive in its stead a certificate of discharge or of service signed by the Commissioner or any commissioned officer acting under his authority.

Missing members.

- 25. (1) If a member of the Force who has a spouse or other dependant is missing and the Commissioner is satisfied that his absence arose from the performance of his powers or functions in terms of this Act, such member shall for all purposes be deemed to be still employed by the Force from the day following the day on which such absence commenced until the day on which he again reports for duty or, in the opinion of the Commissioner, should again have reported for duty or a competent court makes or is deemed to have made an order whereby the death of such member should be presumed.
- (2) The salary or wages or allowances accruing to a member during the absence contemplated in subsection (1) shall, subject to the provisions of subsection (4), be paid to his spouse or, if he has no spouse, to his other dependants, or to any person who, in the opinion of the Commissioner, is competent to receive and to administer such salary or wages and allowances on behalf of his spouse or such other dependants.
- (3) Payment of any salary or wages and allowances in terms of subsection (2) shall for all purposes be deemed to be payment thereof to the member concerned, and any amount so paid shall not be recoverable by the Government from any person.

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- (4) Notwithstanding the provisions of subsection (2) the Commissioner may at his discretion direct that only a portion of the salary or wages and allowances of a member be paid in terms of the said subsection or that no portion thereof be so paid.

Appointment of temporary members.

26. (1) Whenever there are in any locality not sufficient ordinary members of the Force available to perform police duties or any particular police duty or to convey any person in lawful custody from such locality to any other place, any commissioned officer, magistrate, additional magistrate or assistant magistrate in that locality may appoint as temporary members, to act as such, so many fit and proper persons as may be necessary for the performance of any such duty as aforesaid.
- (2) The remuneration and other conditions of service of temporary members of the Force shall be determined from time to time in accordance with the laws governing the public service.
- (3) The Commissioner or any commissioned officer acting under his authority may at any time discharge any temporary member from the Force.
- (4) A temporary member of the Force (including a member of the Reserve Police Force), shall be deemed to be in the service of the State notwithstanding the fact that he may by agreement be receiving no remuneration from the State.

Reserve Police Force.

27. (1) The Commissioner may, with the approval of the Minister, establish a Reserve Police Force.
- (2) The conditions of service of members of the Reserve Police Force may, subject to the regulations, be determined by the Commissioner in consultation with the Treasury.

CHAPTER 5

DISCIPLINE

Police Discipline Code.

28. (1) The provisions of Schedule 3 shall comprise and may for all purposes be cited as the Police Discipline Code.
- (2) The Police Discipline Code shall, subject to the provisions of section 29, apply to and in respect of all members of the Force appointed or deemed to have been appointed under this Act.

Jurisdiction of magistrates' courts in respect of offences under Police Discipline Code.

29. (1) Subject to the provisions of subsection (2), a magistrate's court may try any member of the Force for any offence under the Police Discipline Code and may, on the conviction of such member, sentence him to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.
- (2) Notwithstanding anything to the contrary in any other law contained, no member of the Force shall be sentenced to corporal punishment in respect of any offence under the Police Discipline Code.
- (3) For the purposes of subsection (1) a magistrate may hold his court at any police station, police office, or police post in his district.

Police trials.

30. (1) Notwithstanding anything in section 29 contained but subject to the provisions of the Police Discipline Code, any member of the Force who is not a commissioned officer may be tried for any offence under the said Code by any commissioned officer under whose command he is serving or who has been generally or specially deputed thereto by the Commissioner and may on conviction by such officer be reprimanded or sentenced to a fine not exceeding one hundred rand, which fine shall be recovered by stoppages from the salary or wages of the member so convicted in monthly instalments not exceeding ten rand to be determined by the trial officer.
- (2) (a) No member of the Force shall have the right to object to being tried by a commissioned officer under subsection (1) except on the ground that the commissioned officer in question has such knowledge concerning the facts of the case that his decision is likely to be prejudiced thereby.
- (b) Any objection under paragraph (a) shall be heard and determined by the commissioned officer against whom the objection is raised and such officer shall record such objection and his finding thereon, and —
- (i) if he overrules the objection, he shall proceed with the trial of the accused; or
- (ii) if the objection is upheld, the Commissioner shall authorize another commissioned officer to try the accused.
- (3) Subject to the provisions of section 41 of this Act and section 25 of the Police Discipline Code the provisions of the law relating to evidence and witnesses in criminal proceedings in a magistrate's court, with the exception of paragraph (a) of the proviso to section 217 (1) of the Criminal

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Procedure Act, 1977 shall apply at all trials under this section and the trial officer shall keep a record of the proceedings, and of all the evidence given, at the trial.

- (4) (a) When a member of the Force is convicted under this section of an offence which has caused any deficiency in or damage to or loss of property (including money) belonging to or in the possession or under the control of the State, the trial officer may order such member to make good such deficiency, damage or loss: Provided that the trial officer shall make no such order where the amount of the said deficiency, damage or loss exceeds two hundred rand.
- (b) Any amount ordered to be paid by a member under paragraph (a) shall be a debt due to the State and, subject to any directions of the Treasury, may be recovered by stoppages from the salary or wages of such member.
- (5) The accused (unless he has been suspended from office under section 19) and every other member of the Force who is obliged to attend a trial conducted under this section shall be deemed to be on duty for the purposes of such trial and shall be entitled to the travelling privileges and subsistence allowance prescribed in the regulations.

Admission of guilt.

31. (a) Notwithstanding anything contained in section 29 or 30, a member of the Force may, without appearing before a commissioned officer as contemplated in the said section 30, in writing admit his guilt in respect of the offence with which he has been charged and undertake to pay such fine, not exceeding one hundred rand, as the Commissioner may have determined (as he is hereby authorised to determine) in respect of such offence.
- (b) Any member of the Force who admits his guilt as provided in paragraph (a) shall be deemed to have been duly convicted under section 30 (1) and the fine payable by him shall be recovered by stoppages from the salary or wages of such member in such monthly instalments not exceeding ten rand as the Commissioner may direct.

Misconduct of commissioned officer.

32. (1) The Commissioner may, whenever it appears to him after such investigation as he may deem necessary that a commissioned officer has rendered himself guilty of misconduct, charge such officer in writing with that misconduct: Provided that, if the misconduct amounts to an offence of which the commissioned officer has been convicted by a court of law, it shall not be necessary to charge him as contemplated herein but he shall be deemed conclusively to be guilty of that misconduct unless the conviction has been set aside by a competent court or he has been granted a free pardon.
- (2) A charge under subsection (1) shall contain or be accompanied by a direction calling upon the commissioned officer concerned to transmit or deliver to the Commissioner within a period specified in the direction (not being less than fourteen days) a written admission or denial of the charge and, if he so desires, a written explanation of the misconduct with which he is charged.
- (3) If the commissioned officer admits the charge, he shall be deemed conclusively to be guilty of such misconduct.
- (4) If the commissioned officer denies the charge or fails or refuses to admit or to deny the charge, the Minister shall, if in his opinion there is cause for further proceedings, cause an enquiry to be conducted into the charge in the manner prescribed in section 34 of the Police Discipline Code.

Punishment or otherwise of commissioned officer guilty of misconduct.

33. (1) Where a commissioned officer –
 - (a) is, in terms of the proviso to section 32 (1) of this Act, section 32 (3) of this Act or section 13 (3) of the Police Discipline Code, deemed conclusively to be guilty of misconduct, or
 - (b) has, after the holding of an enquiry contemplated in section 32 (4) of this Act, been found guilty of misconduct and has not appealed against such finding under section 35 of the Police Discipline Code or where he has so appealed but the Minister had dismissed the appeal, the Minister may, after considering the record of the proceedings of the enquiry (if any) and any representations made by the commissioned officer concerned, the person who conducted such enquiry and the Commissioner regarding the imposition of punishment –
 - (i) direct that no further action be taken in the matter; or
 - (ii) direct that the matter be resubmitted to him for disposal in terms of this subsection after the expiry of such period, not exceeding twelve months, as he may specify; or
 - (iii) direct that the commissioned officer concerned be cautioned or reprimanded; or
 - (iv) impose on the commissioned officer a fine not exceeding five hundred rand which may be recovered by way of stoppages from the salary or allowances of such officer in equal instalments over a period of not longer than twelve months; or
 - (v) direct that the matter be referred to the President who may thereupon deal with it under the powers vested in him by section 21 (3) of this Act; or
 - (vi) make such other order as to him seems just.

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- (2) If the President in the exercise of his powers under section 21 (3) -
- (a) discharges a commissioned officer from the Force, such discharge shall take effect from a date to be determined by the President;
 - (b) reduces a commissioned officer in rank, such reduction shall take effect from the first day of a month to be specified by the President but subject to the provisions of section 19 (4).

Misconduct of Commissioner.

34. When the Commissioner is alleged to have rendered himself guilty of misconduct the Minister shall forthwith report the matter to the President who may direct the Minister to take action against the Commissioner in respect of such misconduct and thereupon the provisions of sections 32 and 33 shall *mutatis mutandis* apply: Provided that -
- (a) every reference in the said sections to the Commissioner shall be construed as a reference to the Minister; and
 - (b) any enquiry into a charge of misconduct against the Commissioner shall be conducted by a magistrate of a grade not lower than regional magistrate.

CHAPTER 6

OFFENCES

Assaulting, resisting, interfering with or threatening member of the Force or making false statement.

35. (1) Any person who -
- (a) assaults or resists or wilfully obstructs, hinders, or interferes with any member of the Force in the exercise of his powers or the performance of his duties or functions or wilfully makes to any member of the Force, in relation to any offence or alleged offence in respect of which such person would be a competent and compellable witness, a statement which he knows to be false or does not believe to be true, or
 - (b) in order to compel any member of the Force to refrain from carrying out any function of the Force or to do or to abstain from doing any act in respect of the exercise of his powers or the performance of his duties or functions or on account of such member having done or abstained from doing such an act, threatens or suggests the use of violence to, or restraint upon, such member or any of his relatives or dependants or threatens or suggests any injury to the property of such member or of any of his relatives or dependants,
- shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.
- (2) Any person who wilfully subjects to unreasonable delay or detention any member of the Force in the exercise of his rights under section 8 (2) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand.

Corrupting or incapacitating member of the Force.

36. (1) Any person, not being a member of the Force, who -
- (a) agrees with or induces or attempts to induce any member of the Force to omit to carry out his duty or to do any act in conflict with his duty, or
 - (b) is a party to or aids or abets or incites to the commission of any act whereby any lawful order given to a member of the Force or any provision of this Act may be evaded, or
 - (c) supplies liquor to any member of the Force while such member is on duty,
- shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.
- (2) Nothing in subsection (1) contained shall be construed as derogating in any way from the provisions of the Prevention of Corruption Act, 1958 (Act 6 of 1958).

Falsely pretending to be member of the Force.

37. Any person who -
- (a) not being a member of the Force, by word, conduct or demeanour pretends that he is a member, of the Force, or
 - (b) unless duly authorised thereto by the Commissioner or by reason of his appointment under this Act, wears any uniform or distinctive badge or buttons of the force or anything so closely resembling any such uniform, badge or buttons as to be calculated to deceive,
- shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months.

False representations as to association with

38. Any person who, without the approval of the Minister, in connection with any activity carried on by him takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating

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the Force.

or conveying or purporting to indicate or to convey or calculated or likely to lead other persons to believe or to infer that such activity is carried on under or by virtue of the provisions of this Act or under the patronage of the Force or is in any manner associated or connected with the Force, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand.

Unlawful receipt or possession of equipment, etc. of member.

39. (1) Any person who receives or has in his possession any means of transport, firearm, ammunition, accoutrements, clothing or other article of equipment knowing the same to have been sold, pledged, lent or otherwise disposed of by a member of the Force in contravention of any provision of this Act shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.
- (2) In any proceedings under subsection (1) it shall be presumed, until the contrary is proved, that the accused, when he received or took into his possession from a member of the Force any means of transport or other article referred to in that subsection, well knew that such member had no authority or permission to sell, pledge, lend, or otherwise dispose of such means of transport or other article.

Fraudulent enrolment etc.

40. Any person who —
- (a) wilfully gives a false answer to any question set forth on an enrolment application referred to in section 10 (3) (a), or
 - (b) by means of any false certificate or other document or any false representation obtains admission to the Force; or
 - (c) having been discharged from the Force, receives by concealing such discharge, any salary, wage, allowance, gratuity or other benefit to which he is not entitled,
- shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.

Failure of witness to attend police trial, etc.

41. Any person, other than a member of the Force, who has been duly subpoenaed to attend as a witness —
- (a) at any trial under section 30 of this Act, or
 - (b) at any enquiry contemplated in section 32 (4) or 34 of this Act, or
 - (c) at any enquiry convened under any provision of the Police Discipline Code,
- to give evidence or to produce any document or thing and who fails to attend or to remain in attendance until authorized to leave or refuses to be sworn or to affirm or to answer any question which in criminal proceedings in a magistrate's court he could be compelled to answer or who fails or refuses to produce any document or thing which in such proceedings he could be compelled to produce, shall, unless he satisfies the court that his failure was not due to fault on his part, be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

False statement under oath or affirmation.

42. Any person, who at any trial under section 30 of this Act or at any enquiry contemplated in section 32 (4) or 34 of this Act makes under oath or affirmation a false statement knowing it to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.

Fraudulent use of decorations, medals, etc.

43. Any person not being a member of the Force who, without the permission in writing of the Commissioner, makes use of any decoration or medal instituted, constituted or created by the President under section 44 of this Act or its bar, clasp or ribbon or anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive shall, unless he is the person to whom such decoration or medal was awarded, be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand.

CHAPTER 7

GENERAL

Decorations and medals.

44. (1) The President may institute, constitute and create decorations and medals, as well as bars, clasps and ribbons in respect of such decorations and medals, which may be awarded by the President or the Minister subject to such conditions as may be prescribed by the President, to any person who is or was a member of the Force in respect of his services as such a member or who has rendered

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exceptional service to the Force.

- (2) The design, and the procedure relating to the use, care, loss, forfeiture and restoration, of any such decoration, medal, bar, clasp or ribbon shall be as prescribed by the President.

Rewards for extraordinary diligence or exertion or for assistance rendered to the Force.

45. (1) The Commissioner may, with the approval of the Minister acting in consultation with the Treasury and out of moneys appropriated by the National Assembly for the purpose, award —
- (a) to any person who is or was a member of the Force, for extraordinary diligence or exertion in the performance of his duties as such a member, or
- (b) to any person for any service or assistance rendered to any member of the Force in or in connection with the exercise of his powers or the performance of his duties under this Act or any other law,
- such monetary or other reward as the Commissioner considers appropriate in the circumstances.
- (2) Notwithstanding anything to the contrary in any other law contained, any court which convicts any person of any offence may order and direct that a portion of any fine imposed by the court and which accrues to revenue shall be paid to the person or persons on whose information the conviction of any offender may have been obtained or who materially assisted in bringing such offender to justice.

Payment by public for Police services.

46. (1) The Commissioner shall, with due regard to the provisions of sections 3 and 8 of this Act and in consultation with the Treasury, determine the fees (if any) to be paid to revenue by any person to whom any service has been rendered by any member of the Force at the request of such person or on his behalf or in his interests: Provided that nothing herein contained shall be construed as prohibiting or preventing any member of the Force, duly authorized thereto by the Commissioner, from rendering or performing free of charge any service, function or duty on behalf of any charitable, cultural or educational organization or body or in any matter of public interest.
- (2) Except as provided in subsection (1) no member of the Force shall, during the appointed hours of duty, employ any other member or any person in the public service on work which is not performed in the execution of the functions and duties of the Force or otherwise on behalf of the State.

Abandoned, lost or unclaimed property.

47. (1) Any member of the Force who finds, or who takes charge or otherwise comes into possession of, any abandoned, lost or unclaimed property shall forthwith hand in the same at a police station for safekeeping and disposal in accordance with law: Provided that —
- (a) if such property is money, it shall without delay be deposited in the deposit account of the magistrate of the district; or
- (b) if such property is livestock, it shall be impounded without delay and be dealt with under the provisions of the pound laws.
- (2) The member of the Force to whom any abandoned, lost or unclaimed property is handed, whether by another member or by some other person, shall forthwith record full particulars thereof and of the finder in a register to be kept for the purpose and, subject to the proviso to subsection (1) and the provisions of subsection (3), shall ensure that such property is kept in a safe place until it can be dealt with appropriately.
- (3) Subject to any standing order, any such property which is of a perishable nature may be returned to the finder if he proves his *bona fides* or may be sold and the proceeds paid to revenue or may, if the circumstances so require, be destroyed.
- (4) Any such property which is or appears to be valueless may, after reasonable enquiry, be destroyed if a commissioned officer so authorises.
- (5) The Commissioner may cause to be advertised, in such manner as he may determine, any property (other than livestock or perishable or valueless property) which remains unclaimed after reasonable enquiry and which is so marked or is otherwise so distinctive that it can be identified merely by description.
- (6) If any person claims such property, the commander of the police station concerned shall call upon him to furnish proof of his claim and, if such commander is satisfied that such person is the owner of such property and may lawfully possess the same, cause it to be delivered to him, subject —
- (a) to the payment to revenue by such person of all the expenses incurred by the State in connection with such property, and
- (b) to the furnishing by the person of a receipt for such property as well as an appropriate indemnity.
- (7) If, after the expiration of a period of three months (in the case of property of insignificant value) or six months (in the case of other property), such property remains unclaimed, the Commissioner may at his discretion —

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- (a) appropriate any of such property for use in the Force; or
 - (b) direct that such property be returned to the finder (not being a member of the Force), subject to the provisions *mutatis mutandis* of subsection (6); or
 - (c) subject to the provisions of any law and of any standing order, direct that such property be sold by public auction and the proceeds paid to revenue; or
 - (d) give such other directions as to the disposal of the property as he may deem fit after consultation with the Treasury.
- (8) If, after the appropriation or sale of any abandoned, lost or unclaimed property under subsection (7), any person proves to the satisfaction of the Commissioner that he was in fact the lawful owner or possessor of such property, the Commissioner may, with the approval of the Treasury, pay to such person the fair value of such property or, as the case may be, an amount equal to the amount paid to revenue in respect of such property less the amount of the expenses referred to in subsection (6) (a): Provided that the Commissioner may require such person to furnish him with an appropriate indemnity.
- (9) For the purposes of this section a sale by public auction means a public sale by an auctioneer or, if the services of an auctioneer are not readily available, a sale on police premises by a commander of a police station or by any other member of the Force authorized thereto by such a commander after public notice of not less than seven days has been given of such sale in such manner as may be prescribed by the Commissioner.

*Limitation of actions
and of certain
liabilities.*

48. (1) Notwithstanding anything to the contrary in any other law contained, no civil proceedings of any nature arising –
- (a) out of any contract lawfully entered into on behalf of the Force or the State in pursuance of any provision of this Act, or
 - (b) out of any wrong committed by any member of the Force acting in his capacity and within the scope of his authority as such member,
- shall be brought against the State or against any such member if a period of six calendar months has elapsed from the date on which the cause of action arose and unless notice in writing of the intention to bring such proceedings and of the cause thereof and of the details and amount of the claim has been given the defendant at least one month before the commencement of the proceedings.
- (2) If any legal proceedings are brought against any member of the Force for any act done in obedience to a warrant purporting to be issued by a magistrate, justice of the peace or other officer authorized by law to issue warrants, that member shall not be liable for any irregularity in the issuing of the warrant or for want of jurisdiction in the person issuing the same, and upon production to the court of the warrant bearing the signature of the person reputed to be a magistrate or justice of the peace or other such officer as aforesaid and upon proof that the acts complained of were done in obedience to the warrant, judgment shall be given in favour of such member.
- (3) Whenever any person is conveyed in or makes use of any State vehicle or other official transport allocated to the Force, the State or any member of the Force shall not be liable to such person or his spouse, parent, child or other dependant for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to property caused by or arising out of or in any way connected with the conveyance in or the use of such vehicle or other transport unless such person is so conveyed or makes use thereof in, or in the interests of, the performance of the functions of the State: Provided that the provisions of this subsection shall not affect the liability of a member of the Force who wilfully causes the said loss or damage.
- (4) In respect of any civil proceedings of the nature contemplated in subsection (1) which are to be brought against the State or against a member as well as the State –
- (a) the Commissioner may, as regards the claim against the State, be cited as nominal defendant or respondent; and
 - (b) it shall be sufficient compliance with the provisions of that subsection if the prescribed notice of the intention to bring such proceedings is given to the Commissioner.

*Member of Force
absolved from prosecution under other
laws after trial under
Act.*

49. Nothing in this Act contained shall prevent any person from being prosecuted otherwise than under the provisions of this Act in all cases in which he would be liable to be so prosecuted, but no member of the Force who has been acquitted or convicted of any offence under this Act shall be liable again to be tried for any offence arising from the same facts and circumstances.

Regulations.

50. (1) The President may make regulations not inconsistent with the provisions of this Act as to –
- (a) the appointment, training, promotion, transfer, leave of absence and conditions of service

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- generally of members of the Force;
- (b) the rates of any allowances payable to members of the Force, whether for subsistence, transport or any other purpose, and the circumstances in which such allowances may be paid;
 - (c) the standards of physical and mental fitness and the medical examination of members of the Force and the medical, dental and hospital treatment of such members;
 - (d) the form of the reports or certificates to be made or furnished by medical practitioners or dentists for the purposes of any provision of this Act;
 - (e) the administration and control of training institutions for members of the Force;
 - (f) the attendance by members of the Force of courses of instruction or training at institutions whether within or outside Ciskei;
 - (g) the provision of stores, firearms, ammunition, means of transport and other equipment required by the Force and the care, safe custody and maintenance thereof;
 - (h) the manner of dealing with any surplus, unserviceable, obsolete or redundant stores and equipment;
 - (i) returns, registers, records, documents, books, forms and correspondence relating to the Force;
 - (j) the exercise of their powers and the performance of their duties and functions by members of the Force;
 - (k) the provision to, and the occupation by, members of the Force of quarters, whether owned or leased by the Government or placed at its disposal;
 - (l) the dress and clothing of the Force and the control or disposal of any article of uniform or equipment by any member;
 - (m) the retention of rank on retirement or resignation from the Force and the award of honorary ranks;
 - (n) all matters which under this Act are required or permitted to be prescribed by regulation; or
 - (o) the general administration and control of the Force and any other matter which the President deems it necessary or expedient to prescribe in order to achieve the aims and objects of this Act, the generality of the powers conferred by this paragraph not being limited in any way by the provisions of the preceding paragraphs.
- (2) The regulations may provide penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of two hundred rand or imprisonment of six months, and different regulations may be made in respect of different branches, units or groups, or different classes or categories of members, of the Force.
- (3) Any regulation prescribing improved conditions of service for members of the Force may be made with retrospective effect.

Provisions relating to Schedules.

51. (1) The President may from time to time by proclamation in the *Gazette* amend Schedule 1, 2 or 3.
- (2) The Schedules shall be read as one with this Act and any amendment of a Schedule when published as provided in subsection (1) shall have the same force and effect as if it had formed part of the original Schedule and shall be taken to be included in any reference made in this Act to such Schedule.

Repeal of laws and savings.

52. (1) Subject to the provisions of subsection (2) the laws specified in Schedule 4 are hereby repealed to the extent set out in the third column of that schedule.
- (2) Notwithstanding anything in any other law contained any appointment, approval, authority, notice, document or regulation (in so far as such regulation has not been superseded by or is not inconsistent with any provision of this Act) made, granted, given or issued and any other action taken under any provision of a law repealed by subsection (1) or under any provision of any regulation made under such law shall be deemed to have been granted, given, made, issued or taken under the corresponding provision (if any) of this Act.
- (3) Any reference in any law –
- (a) to the "Divisional Commander of the Police Division", shall be construed as a reference to the Commissioner as defined in section 1 of this Act; and
 - (b) to the "Police Division" or the "Police division of the Law Enforcement Branch" or any similar expression, shall be construed as a reference to "the Force" as defined in section 1 of this Act.

Exemption of Police canteens from licence fees.

53. (1) No licence fees, duty or tax (other than general sales tax) shall be payable to revenue in respect of any canteen of members of the Force, certified as such under the hand of the Minister.
- (2) For the purposes of this section "canteen" includes any mess for members of the Force or any premises providing recreation, refreshments or necessities solely for members or pensioners of the

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Force or for persons employed in any work in or in connection with any such mess or premises.

Short title.

54. This Act shall be called the Police Act, 1983.

SCHEDULE 1

PART A

RANKS AND OFFICIAL DESIGNATIONS OF MEMBERS
COMMISSIONED OFFICERS: COMMISSIONER OF THE CISKEIAN POLICE:

Brigadier
DEPUTY COMMISSIONER OF THE CISKEIAN POLICE: Colonel
Lieutenant-Colonel.
Major.
Captain.
Lieutenant.

NON-COMMISSIONED OFFICERS:

Warrant Officer.
Sergeant (including Lance-Sergeant).

OTHER MEMBERS:

Constable (including temporary constable).

PART B

(1) DISTINCTIVE BADGES OF THE FORCE

- (a) All members. The coat-of-arms of Ciskei on a shield above a scroll inscribed with the words "AMAPOLISA ASECISKEI" and "CISKEI POLICE".
- (b) All members below
commissioned rank A shoulder badge with the word "POLICE" thereon.

(2) BUTTONS OF THE FORCE

Domes shaped and embossed with a replica of a blue crane holding a sprig of leaves in its beak, substantially as represented in the coat-of-arms of Ciskei.

(3) BADGES OF RANK OF MEMBERS OF THE FORCE

- Brigadier Three stars in a triangle below an ox-head.
Colonel Two stars below an ox-head.
Lieutenant-Colonel One star below an ox-head.
Major An ox-head.
Captain Three stars.
Lieutenant Two stars.
Warrant Officer The coat-of-arms of Ciskei on six partly concealed interlocking rings.
Sergeant A three-bar chevron below an ox-head.
Lance Sergeant A three-bar chevron.

SCHEDULE 2

OATH OR DECLARATION OF OFFICE OF MEMBER OF THE FORCE

I, do hereby make oath and say/truly affirm and declare -

- (a) that I shall be faithful to the Government of Ciskei;
- (b) that I shall perform my duties as a member of the Ciskeian Police to the best of my ability;
- (c) that, in the exercise of my functions, I shall abide by the provisions of the Police Act, 1983, the regulations published thereunder and all other applicable laws;
- (d) that I shall obey unconditionally every order or instruction given to me by my superiors in accordance with law;
- (e) that I regard this oath/declaration to be binding on my conscience.

I undertake to serve anywhere, whether within Ciskei or without, in the service of the aforesaid Government.

Signature of Witness

Signature of Attestor

I certify that the attestor has acknowledged that he knows and understands the contents of this declaration which was sworn to/affirmed before me and signed in my presence at on this day of 19

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.....
Commissioner of Oaths/Justice of the Peace

Area

Designation

Full name of Commissioner of Oaths/Justice of the Peace*

*Delete whichever is inapplicable.

SCHEDULE 3

POLICE DISCIPLINE CODE

DEFINITIONS

1. In this Code any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates –
“conduct sheet” means the conduct sheet contemplated in section 43 of this Code;
“headquarters” means the town, township, police station or place where the member concerned ordinarily performs his principal duties or which has been indicated by the Commissioner to be the headquarters of such member;
“narcotic drug”, without the ordinary meaning thereof being limited in any way, includes intoxicating medicine as defined in section 1 of the Liquor Act, 1983;
“prescribed apparatus” means any apparatus, prescribed by the Minister by notice in the *Gazette*, by means of which the breath of any person is tested or analysed in order to determine whether or not the alcohol content of the blood of such person exceeds a given limit; and
“the Act” means a provision of this Act other than this Code.

DISOBEYING LAWFUL COMMAND OR ORDER

2. There shall be guilty of an offence any member who –
 - (a) disobeys, disregards or makes wilful default in carrying out any lawful command given to him by his superior; or
 - (b) disobeys, fails to comply with, or acts contrary to, any provision of the Act or any regulation or of any standing order, police or other order or instruction issued in terms of section 6 (2) (d) or 7 (c) of the Act, with which he has to comply, or which he has to obey; or
 - (c) being a patient in any hospital or similar institution, disobeys any lawful direction given to him by the medical or nursing staff of such hospital or institution.

MUTINY, STRIKE, RIOT, REVOLT OR DISTURBANCE

3. There shall be guilty of an offence any member who –
 - (a) conspires with or incites any other person to mutiny or to cause a mutiny, strike, riot or revolt in the Force; or
 - (b) joins in any mutiny, strike, riot or revolt in the Force; or
 - (c) being present at any mutiny, strike, riot or revolt in the Force, fails to do his utmost to suppress it; or
 - (d) knowing or suspecting that any other member is conspiring to cause, or has joined in, a mutiny, strike, riot or revolt in the Force, fails to report without delay to his commander or superior all the facts which he knows.

INSUBORDINATION

4. There shall be guilty of an offence any member who –
 - (a) threatens his superior with violence; or
 - (b) uses threatening or insulting language, or by word or conduct displays insubordination or behaves with contempt, towards his superior; or
 - (c) resists his superior by word or deed; or
 - (d) adopts towards his superior a disdainful, recalcitrant or insolent attitude.

ASSAULT, POINTING OF FIREARM, ETC.

5. There shall be guilty of an offence any member who –
 - (a) assaults, points a firearm at, or draws a weapon against any other member; or
 - (b) discharges a firearm recklessly or negligently.

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FIGHTING OR RIOTOUS BEHAVIOUR

6. There shall be guilty of an offence any member who —
- (a) fights or takes part in a fight; or
 - (b) intentionally causes an unnecessary disturbance; or
 - (c) otherwise behaves in a riotous or disorderly manner.

DISCOURTESY OR IMPROPER CONDUCT

7. There shall be guilty of an offence any member who —
- (a) while in uniform or in the exercise of his functions displays gross discourtesy towards any person; or
 - (b) conducts himself in an improper manner or in a manner unbecoming a member of his rank.

ILL-TREATING SUBORDINATE

8. Any member who ill-treats, acts in a tyrannical or oppressive manner towards, or belittles, any other member who is by reason of rank or appointment subordinate to him, shall be guilty of an offence.

DESERTION ETC.

9. There shall be guilty of an offence any member who —
- (a) deserts from the Force; or
 - (b) refuses to carry out any function of the Force; or
 - (c) incites or persuades any other member to desert from, or to refuse to carry out any function of, the Force; or
 - (d) knowingly receives, harbours, conceals, assists or cares for any other member who has deserted from the Force or who has without valid cause absented himself from duty or, knowing the whereabouts of such member, fails to notify his superior forthwith of the fact and to do everything within his power to arrest such member or to cause him to be arrested.

MALINGERING, FEIGNING OR PRODUCING DISABILITY OR WITHHOLDING
INFORMATION OF DISABILITY

10. There shall be guilty of an offence any member who —
- (a) malingers or feigns or pretends to be ill, infirm, indisposed, injured or suffering from pain; or
 - (b) obtains or attempts to obtain exemption from duty on the grounds of illness, infirmity, indisposition, injury or pain by means of a false excuse; or
 - (c) maims or injures himself or any other member or causes himself to be maimed or injured by any person with the intention of rendering himself or such other member unfit for duty in the Force generally or for any particular duty; or
 - (d) wilfully commits or omits to perform an act, in consequence of which he becomes or is likely to become unable to perform any service or duty; or
 - (e) fails to notify his superior without delay that he is suffering from venereal disease or any other disease which is notifiable under any law.

ABSENCE WITHOUT LEAVE AND NON-ATTENDANCE FOR DUTY

11. There shall be guilty of an offence any member who —
- (a) absents himself from duty without leave; or
 - (b) fails without good and sufficient cause to report for duty at the appointed time at his station or place of work or at any other place appointed by his commander or superior; or
 - (c) goes off duty before being relieved contrary to any order or instruction of his superior or without the prior permission of his superior; or
 - (d) contrary to any order or instruction of his superior, absents himself from his headquarters or dwelling without leave or other valid excuse.

DERELICTION OF DUTY

12. There shall be guilty of an offence any member who —

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- (a) sleeps on duty; or
- (b) neglects his duty or performs his duties in an indolent, perfunctory or improper manner.

DRUNKENNESS AND OTHER OFFENCES RELATING TO LIQUOR OR
NARCOTIC DRUGS

13. (1) There shall be guilty of an offence any member who -
- (a) is under the influence of liquor or a narcotic drug whether on or off duty; or
 - (b) has, whether on or off duty, a blood alcohol content, expressed in grams per one hundred millilitres of blood, of not less than seventy miligrams (0,07%); or
 - (c) consumes liquor or uses a narcotic drug while on duty; or
 - (d) renders himself unfit for duty or for the proper performance of his functions by the excessive use of liquor or a narcotic drug; or
 - (e) enters, while on duty, any premises used for the sale, supply, storage or manufacture of liquor, except in the exercise of his functions or for the purpose of obtaining accommodation; or
 - (f) places himself under an obligation to the holder of a liquor licence or any person in the employ of such licence-holder; or
 - (g) acquires or holds shares in any company the main object of which is the manufacture or supply of, or trading in, liquor: Provided that a member shall be deemed not to have committed an offence under this subsection if he uses a narcotic drug strictly in accordance with the directions of a registered medical practitioner or dentist.
- (2) For the purposes of subsection (1) (a), (b), (c) or (d) of this section a commander may require a member whom he suspects on reasonable grounds to be under the influence of liquor -
- (a) to breathe into the prescribed apparatus for such period as he may direct; or
 - (b) to undergo examination by a district surgeon or other medical practitioner, including any blood test which such district surgeon or other medical practitioner may deem necessary in order to determine the alcohol content of the blood of such member; or
 - (c) to breathe into the prescribed apparatus and to undergo the examination referred to in subparagraph (b).
- (3) If -
- (a) any member fails or refuses to breathe into the prescribed apparatus or to undergo examination when so required under subsection (2), or
 - (b) the prescribed apparatus records that the alcohol content of the blood of any member exceeds a limit specified by the Minister by notice in the *Gazette* in respect of that particular make of prescribed apparatus,
- such member shall be deemed conclusively to be guilty of the offence of contravening subsection (1) (a), (b), (c) or (d), as the case may be.
- (4) The provisions of section 212 (4) of the Criminal Procedure Act, 1977 (Act 51 of 1977) and of section 144 (3) and (4) of the Ciskeian Road Traffic Act, 1977 (Act 10 of 1977) shall apply *mutatis mutandis* in relation to any charge under subsection (1) (a), (b), (c) or (d).

FALSE STATEMENT IN OFFICIAL DOCUMENT

14. There shall be guilty of an offence any member who -
- (a) knowingly or negligently makes a false, incomplete or inaccurate statement or entry in a document that is required or made for the purposes of the Act or this Code or otherwise for official purposes; or
 - (b) orders, allows or causes any other person to make or to sign a statement or entry in a document that is required or made for the purposes of the Act or this Code or otherwise for official purposes, well knowing such statement or entry to be false; or
 - (c) with intent to deceive or to prejudice any person, alters, defaces, suppresses or makes away with any document (including any book, form, register, record, report or return) required, made, kept or issued for the purposes of the Act or this Code or otherwise for official purposes.

FALSE ACCUSATION OR STATEMENT OR UNLAWFUL WITHHOLDING
OR DISCLOSING INFORMATION, ETC.

15. There shall be guilty of an offence any member who -
- (a) makes a false accusation or statement against or concerning any other member; or

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- (b) wilfully suppresses or conceals any material information or makes a false statement in any matter concerning or being dealt with by the Force; or
- (c) gives a false alarm or disseminates false information; or
- (d) unless authorised thereto by the Commissioner, directly or indirectly discloses otherwise than in the discharge of his duties, any information gained by or communicated to him by reason of his employment in the Force or, whether or not he discloses such information, uses such information for any purpose other than the discharge of his duties; or
- (e) when any complaint by another member has been made to him, withholds such complaint or unduly delays in redressing the wrong complained of or in sending the complaint to higher authority; or
- (f) with a view to obtaining any privilege or advantage in connection with his position, functions or duties in the Force or with a view to causing harm or prejudice to the Government or any department or other institution thereof or person in its employ, makes a false or incorrect statement well knowing it to be false or incorrect; or
- (g) comments adversely in public on the administration of the Force or of any department or other institution of the Government; or
- (h) addresses an anonymous communication to any person in authority.

OFFENCES IN RELATION TO PERSON IN CUSTODY

16. There shall be guilty of an offence any member who -
- (a) wilfully or negligently allows to escape any prisoner or other person committed to his custody; or
 - (b) without proper authority releases any prisoner or other person committed to his custody; or
 - (c) uses unnecessary violence towards or otherwise illtreats any prisoner or other person in custody.

OFFENCES IN RELATION TO ACQUISITION OR DISPOSAL OF PUBLIC PROPERTY

17. (1) There shall be guilty of an offence any member who -
- (a) unless authorised thereto by his commander, sells, barters or otherwise disposes of or lends or pledges any uniform or equipment, means of transport or other article or thing issued to him at public expense or acquired by him from the Government for personal use in the execution of his duties; or
 - (b) when it is his duty to acquire by purchase, or to sell or otherwise dispose of, any stores, equipment or other property or article whatsoever required for use in, or being or having become the property of, the Force or any institution thereof or of the Government, demands, solicits, receives or accepts any commission, fee, gift, reward or other personal advantage, whether pecuniary or otherwise, in respect of such transaction.
- (2) Every sale, pledge, loan or other disposition of any uniform and equipment or other article or thing contrary to the provisions of subsection (1) (a) shall be null and void.

CORRUPTION

18. There shall be guilty of an offence any member of the Force who, unless authorised thereto by law, accepts or demands in respect of the performance or the failure to perform his duty any commission, fee, gift or reward of whatever nature (not being the emoluments payable to him in respect of his official duties) or fails to report to his commander the offer of any such commission, fee, gift or reward.

UNAUTHORIZED USE OF OR DAMAGE TO CERTAIN PROPERTY

19. There shall be guilty of an offence any member who misappropriates, withholds, misapplies, makes unauthorized use of or wilfully damages -
- (a) any property belonging to, or in the possession or under the control of the Government or for which the Government is otherwise responsible; or
 - (b) any property belonging to any other member or any institution of the Force; or
 - (c) any property belonging to any prisoner or other person in custody; or
 - (d) any article seized under section 8 (1) (e) of the Act, under any provision of Chapter 2 of the Criminal Procedure Act, 1977 or under any other law or which is otherwise an exhibit in a criminal case; or
 - (e) any abandoned, lost or unclaimed property found by such member or taken into his safekeeping or possession.

NEGLIGENTLY LOSING OR DAMAGING CERTAIN PROPERTY

20. (1) There shall be guilty of an offence any member who -
- (a) negligently loses any public property or any uniform and equipment or other property, including any firearm or ammunition, issued to him or to any other member of the Force for personal use in the execution of the duties

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- of the Force; or
- (b) negligently damages or destroys any public property or any property issued to him at public expense for personal use in the execution of his duties.
- (2) If, in any proceedings for a contravention of paragraph (a) of subsection (1), it is proved that any article or property mentioned in that paragraph, which is alleged to have been lost, was issued to the member concerned and that on a date subsequent to such issue such member was found not to be in possession of such article or property, it shall be presumed, unless the contrary is proved, that such article or property was negligently lost by such member.

DEFICIENCIES IN STORES, ETC.

21. (1) Any member who being responsible for stores, stocks, moneys or other property in any office, store or institution of the Force, so negligently performs his duties as to cause any deficiency in such stores, stocks, moneys or property shall be guilty of an offence.
- (2) If in any proceedings for a contravention of subsection (1) it is proved that the member charged was responsible for stores, stocks, moneys or other property in any store, office or institution of the Force and that while he was so responsible a deficiency in such stores, stocks, moneys or property was caused, it shall be presumed, unless a satisfactory explanation to the contrary is given by such member, that he so negligently performed his duties that the said deficiency was caused.

PARTICIPATION IN PARTY POLITICS ETC.

22. There shall be guilty of an offence any member who -
- (a) becomes or is a member, or takes an active part in the activities, of any political party or any movement, organization, body or association having political objectives; or
- (b) whether on or off duty, knowingly and deliberately wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind whatsoever which associates him with any political party, movement, organization, body or association referred to in paragraph (a); or
- (c) in any manner whatsoever, beyond recording his vote or performing official duty at any election, promotes the candidature for public office of any person; or
- (d) seeks interference or intervention from political or outside sources in connection with his own or another member's position, conditions of service or functions in the Force: Provided that nothing herein contained shall prohibit a member from seeking redress of any grievance through the National Assembly.

ENGAGING IN TRADE, BORROWING MONEY, ETC.

23. There shall be guilty of an offence any member who -
- (a) without the permission in writing of the Commissioner -
- (i) engages himself, whether directly or indirectly, in any trade or business or other activity for gain; or
- (ii) performs any remunerative work other than his functions in the Force; or
- (iii) undertakes any private agency or private work connected with the performance of his functions or the carrying out of his duties in the Force; or
- (b) borrows any money, whether directly or indirectly, from or through a member of the Force who is by reason of rank or appointment subordinate to him.

FALSE REPRESENTATION CONCERNING RANK, DECORATIONS OR MEDALS

24. There shall be guilty of an offence any member of the Force who -
- (a) holds himself out to be the holder of a rank other than his own rank in the Force, whether such holding out is by the wearing of badges of rank, other insignia of rank or in any other manner; or
- (b) knowingly wears any decoration, medal, bar or clasp, or the ribbon of any decoration or medal, to which he is not entitled.

FAILURE TO ATTEND TRIAL, REFUSING TO PRODUCE DOCUMENT
OR THING AND CONTEMPT

25. (1) There shall be guilty of an offence any member of the Force who -
- (a) being the accused at a trial under section 30 of the Act, fails without just cause to be present at the appointed time and place of such trial; or
- (b) having been warned or ordered to attend as a witness at a trial under section 30 of the Act or at any enquiry under section 32 (4) of the Act or under section 37 or 39 of this Code fails without just cause to attend or to remain in attendance until authorised to leave; or

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- (c) being present as a witness at any such trial or enquiry as aforesaid, refuses to be sworn or to affirm; or
 - (d) when giving evidence at any such trial or enquiry as aforesaid, refuses to answer any question which in law he could be compelled to answer or refuses or fails to produce any document or thing in his possession or under his control which in law he could be compelled to produce; or
 - (e) uses threatening or insulting language at any such trial or enquiry as aforesaid or wilfully causes a disturbance or interruption thereof or wilfully commits any other act calculated or likely to bring the trial officer or board of enquiry into contempt, ridicule or disrepute; or
 - (f) wilfully gives false evidence at any enquiry under section 37 or 39 of this Code.
- (2) Nothing in this section contained shall be construed as derogating from any provision of section 42 of the Act.

CONDUCT TO THE PREJUDICE OF DISCIPLINE ETC.

26. There shall be guilty of an offence any member of the Force who conducts himself in any manner or does or omits to do anything which is or may be prejudicial to the good order, administration, control or discipline of the Force.

ATTEMPT

27. Any member of the Force who attempts to commit any offence under this Code shall be guilty of an offence.

PROCEDURE IN RELATION TO AND AT POLICE TRIAL

28. (1) Subject to the provisions of the Act, the trial of a member of the Force by a trial officer shall, as far as practicable, be conducted as if it were a summary trial in a magistrate's court and such trial shall, subject to any directions of the Commissioner, be held at such place or places as the trial officer shall appoint.
- (2) The trial officer shall, subject to any directions of the Commissioner, nominate a member of the Force (hereinafter referred to as the prosecutor) who shall be of a rank not lower than that of the accused to conduct the prosecution at such trial: Provided that such member shall not thereby be prohibited or prevented from giving evidence at such trial.
- (3) (a) The prosecutor shall serve or cause to be served upon the accused, within a reasonable period before the commencement of the trial, a copy of the charge sheet in which there shall be stated the nature of the offence, the time and place of the commission of the offence and sufficient particulars to enable the accused to identify the act or omission with which he is charged.
- (b) Any number of charges, including alternative charges, may be brought against the accused either separately or on the same charge sheet: Provided that, where the accused is charged with more than one offence in the same charge sheet, except in the alternative, the trial officer may, on the application of the accused, dispose of each charge or some of the charges separately if he is satisfied that the accused will be prejudiced in his defence if the trial were to proceed on all the charges simultaneously.
- (4) (a) The prosecutor shall notify any witnesses who are members of the Force or otherwise in the full-time employ of the State of the time, date and place of the trial and, in the case of any other witness, shall serve or cause to be served on him a subpoena signed by the trial officer.
- (b) The laws relating to the attendance of witnesses and the payment of expenses of witnesses in criminal proceedings in a magistrate's court shall apply *mutatis mutandis* in the case of any witnesses who are not members of the Force or otherwise in the full-time employ of the State.
- (5) If the accused desires to have subpoenaed to give evidence in his defence any witness who is not a member of the Force or otherwise in the full-time employ of the State and satisfies the trial officer that he is unable to pay the prescribed costs and fees and that the evidence of such witness is necessary and material for his defence, the trial officer shall cause such witness to be subpoenaed: Provided that, if the trial officer is not so satisfied, he may refuse to subpoena such witness or may defer his decision until he has heard the other evidence in the trial or any part thereof: Provided further that the Commissioner may direct that the costs and fees of any witness so subpoenaed be recovered from the accused.
- (6) Every witness appearing to give evidence at a trial before a trial officer shall give his evidence *viva voce* and under oath or affirmation administered to him by the trial officer.
- (7) Every member of the Force charged with an offence before a trial officer shall be entitled to make his defence at his trial and to be represented by his legal representative.
- (8) Unless the Commissioner has so authorised, no person other than the trial officer, the accused and his legal representative (if any), the prosecutor, any witness then giving evidence and, if necessary, an interpreter shall be present at the trial.
- (9) The accused or his legal representative shall have the right, under the supervision of a member designated by the trial officer, to inspect the record of the proceedings at the trial at any time and to make a copy thereof or the accused may otherwise obtain a copy of such record as if it were the record of criminal proceedings in a magistrate's court.
- (10) Where the accused pleads guilty to the offence with which he is charged or to an offence of which he may be convicted on the charge and the prosecutor accepts that plea, the trial officer may, subject to the provisions of subsection (12),

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- convict the accused in respect of the offence to which he has pleaded guilty on his plea of guilty only.
- (11) Upon the conviction of the accused the prosecutor shall produce to the trial officer a certified extract from the conduct sheet of the accused on which the unexpunged convictions of the accused appear, shall thereupon call upon the accused to admit or to deny such convictions and, if the accused does not admit any conviction, shall be entitled to call evidence to prove such conviction.
 - (12) Nothing in subsections (10) or (11) contained shall be so construed as to prevent the prosecutor from presenting evidence on any aspect of the charge or the trial officer from hearing evidence, including evidence or a statement by or on behalf of the accused, with regard to sentence or from questioning the accused on any aspect of the case for the purpose of determining an appropriate sentence.

ALTERNATIVE VERDICTS

29. An accused who is charged -

- (a) with desertion, may be found guilty of having been absent from duty without leave;
- (b) with having used threatening language towards his superior, may be found guilty of having used insulting language or having by word or conduct displayed insubordination or having behaved with contempt towards his superior;
- (c) with having by word or conduct displayed insubordination or having behaved with contempt towards his superior, may be found guilty of having used threatening or insulting language towards his superior;
- (d) with malingering, may be found guilty of feigning or pretending to be ill, infirm, indisposed, injured or suffering from pain;
- (e) with maiming, may be found guilty of injuring;
- (f) with any offence under this Code other than the offence prescribed in section 26, may be found guilty of having contravened the said section 26;
- (g) with any offence under this Code, may be found guilty of having attempted to commit that offence or of having aided, abetted, induced, incited, instigated, instructed or commanded any other member of the Force to commit that offence or of having procured the commission of that offence.

APPEALS IN POLICE TRIALS

30. (1) Any member of the Force who has been convicted by a trial officer may, not later than seven days after the date of such conviction, appeal to the Minister against the conviction or the sentence or any order made by the trial officer under section 30 (4) of the Act by lodging with the trial officer his appeal in writing in which he shall set out clearly and in detail the grounds of the appeal.
- (2) On receipt of the appeal the trial officer shall compile a statement in writing in which he shall set forth -
 - (a) the facts he found to be proved;
 - (b) the reasons for any finding of fact against which appeal has been noted; and
 - (c) his reasons for any ruling, against which appeal has been noted, on any question of law or the admission or rejection of any evidence.
- (3) (a) Not later than seven days after lodging of the appeal the trial officer shall -
 - (i) transmit the appeal and his statement, together with the record of the proceedings at the trial and all other relevant documents to the Commissioner; and
 - (ii) cause a copy of his statement to be delivered to the appellant.
- (b) The appellant may, not later than seven days after the delivery to him of the trial officer's statement, submit to the Commissioner written representations in support of his appeal.
- (4) The Commissioner shall without delay submit to the Minister the record of the proceedings at the trial and all other documents relating to the appeal, as well as such written comment as he may wish to make in the matter, and the Minister may thereupon -
 - (a) confirm the conviction, sentence and order; or
 - (b) make such finding, impose such sentence or make such order as, in his opinion, should have been made or imposed at the trial of the member concerned; or
 - (c) allow the appeal if he is of opinion that the conviction should be set aside on the ground of a wrong decision on any question of law or that on any other ground there was a failure of justice; or
 - (d) make such other order as justice may require.
- (5) The Commissioner shall cause the decision of the Minister under subsection (4) to be conveyed to the appellant without delay.

REVIEWS IN POLICE TRIALS

31. (1) If within the period prescribed in section 30 (1) of this Code no appeal is lodged with the trial officer, the trial officer shall submit to the Commissioner for review the record of the proceedings at the trial, and the Commissioner may thereupon confirm or set aside the conviction or confirm or reduce the sentence or confirm, amend or set aside any

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order made by the trial officer under section 30 (4) of the Act.

- (2) (a) Notwithstanding the provisions of section 30 of this Code or subsection (1) of this section, the Minister may at any time direct that the record of the proceedings at the trial of any member be submitted to him for review and may thereupon act in the matter as provided in subsection (4) of section 30 of this Code.
- (b) Pending the Minister's decision under paragraph (a) the execution of any sentence imposed on the member concerned shall be suspended.

WHEN CONVICTION OR SENTENCE BY COMMISSIONED OFFICER COMES
INTO OPERATION

32. No conviction or sentence by a commissioned officer shall have any force or effect unless it has been confirmed, and where a sentence is altered the amount of the fine and any other amount to be paid by the member convicted has been determined, by the Minister or by the Commissioner, as the case may be.

TECHNICAL IRREGULARITY OR DEFECT AT TRIAL NO BAR TO FRESH
PROCEEDINGS

33. Whenever the Minister or the Commissioner, as the case may be, sets aside a conviction and sentence under section 30 or 31 of this Code on the ground that there has been a technical irregularity or defect in the trial, proceedings under section 30 of the Act in respect of the same offence to which the conviction and sentence referred shall, if the Minister or the Commissioner so directs, again be instituted either on the original charge, suitably amended where necessary, or upon any other charge, as if the member of the Force concerned had not previously been tried and convicted: Provided that the commissioned officer before whom the original trial took place shall not conduct the trial so directed by the Minister or the Commissioner.

ENQUIRY INTO MISCONDUCT OF COMMISSIONED OFFICER
OTHER THAN THE COMMISSIONER

34. (1) For the purposes of the enquiry contemplated in section 32 (4) of the Act, the Minister shall -
- (a) appoint a commissioned officer of a rank equal to or higher than that of the commissioned officer charged (hereinafter referred to as the defendant) or a magistrate to enquire into the charge (the person enquiring into such charge being hereinafter referred to as the investigating officer); and
- (b) authorise any person in the service of the State to attend the enquiry and to adduce evidence and arguments in support of the charge and to cross-examine any person called as a witness for the defence.
- (2) (a) The Commissioner shall fix the time and place of the enquiry after consultation with the investigating officer and shall notify the defendant of the time and place so fixed.
- (b) Unless the Commissioner has so authorised, no person other than the investigating officer, the person referred to in subsection (1) (b), the defendant and his legal representative (if any), any witness then giving evidence and, if necessary, an interpreter shall be present at the enquiry.
- (3) At the enquiry -
- (a) the defendant shall have the right to be heard either personally or through a legal representative, to cross-examine any person called as a witness in support of the charge against him, to inspect any documents produced in evidence, to give evidence himself, to call other persons as witnesses and at the conclusion of the enquiry to address the investigating officer;
- (b) the investigating officer -
- (i) may, before he hears any evidence, ask the defendant or his representative whether he wishes to make a statement indicating the basis of the defence and, for that purpose, may question the defendant in order to establish which of the allegations in the charge he admits or denies, and the investigating officer shall record any replies so received;
- (ii) shall keep a record of the proceedings, and of all the evidence given, at the enquiry; and
- (iii) shall administer an oath or affirmation to all persons called as witnesses;
- (c) the provisions of the law relating to evidence and witnesses as applicable in connection with criminal proceedings in a magistrate's court, except paragraph (a) of the proviso to section 217 (1) of the Criminal Procedure Act, 1977, shall otherwise apply;
- (d) any admission made by the defendant in reply to any question under paragraph (a) shall be admissible in evidence against him;
- (e) the failure of the defendant to be present at any time, whether personally or by a representative shall not invalidate the proceedings;
- Provided that if the defendant, pursuant to a question under paragraph (b) (i), admits he is guilty of the misconduct with which he is charged he may, if the Commissioner approves, be found guilty without any evidence being adduced.
- (4) At the conclusion of the enquiry, the investigating officer shall -

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- (a) find whether the defendant is guilty or not guilty of the alleged misconduct;
 - (b) inform the defendant of his finding;
 - (c) report the result of the enquiry to the Commissioner and, with due regard to the provisions of paragraph (d), forward to him the record of the proceedings at the enquiry (including any documentary evidence admitted thereat) together with a recommendation as to the punishment (if any) to be imposed upon the defendant;
 - (d) if he has found the defendant guilty of misconduct otherwise than on the defendant's admission of guilt as contemplated in the proviso to subsection (3), not later than fourteen days after making such finding furnish the defendant or his representative and the Commissioner with a written statement showing the facts which he found to be proved and the reasons for his finding.
- (5) The defendant or his legal representative shall have the right, under the supervision of a person designated by the investigating officer, to inspect the record of the proceedings at the enquiry at any time and to make a copy thereof or the defendant may otherwise obtain a copy of such record as if it were a record of criminal proceedings in a magistrate's court.
- (6) Nothing in this section contained shall be construed —
- (a) as derogating from the powers and authorities vested in the Attorney-General by section 3 of the Criminal Procedure Act, 1977; or
 - (b) as exempting any commissioned officer from liability to prosecution in and conviction by any court of law in respect of any offence.

APPEAL BY COMMISSIONED OFFICER

35. (1) A commissioned officer found guilty of misconduct in the circumstances contemplated in section 34 (4) (a) of this Code may, not later than fourteen days after the date on which he or his representative received the written statement referred to in section 34 (4) (d), lodge with the Commissioner in writing an appeal against the finding of the investigating officer in which he shall set forth fully the grounds of the appeal and may, if he so desires, make representations to the Minister in regard to the imposition of punishment.
- (2) The Commissioner shall, without delay, submit all the documents relating to the enquiry and the appeal to the Minister.

POWERS OF MINISTER IN REGARD TO APPEAL OF COMMISSIONED OFFICER

36. (1) The Minister shall consider the appeal of a commissioned officer without delay and may thereupon —
- (a) allow the appeal wholly or in part and set aside or alter the finding of the investigating officer, or
 - (b) dismiss the appeal:
- Provided that the Minister may, before arriving at a final decision, remit any question in connection with the enquiry to the investigating officer and direct him to report thereon or to hold such further enquiry as the Minister may indicate and make a finding thereon.
- (2) The provisions of section 34 of this Code shall apply *mutatis mutandis* in relation to any further enquiry so directed by the Minister.

ENQUIRY AS TO FITNESS OF CERTAIN MEMBERS TO REMAIN IN THE FORCE
OR TO RETAIN THEIR RANK

37. (1) The Commissioner may at any time by order in writing (hereinafter referred to as the convening order) convene a board for the purpose of making enquiry as well as a finding and a report —
- (a) as to the desirability or otherwise of the discharge from the Force, on the grounds contemplated in section 21 (1) (c) or (e) of the Act, of any member other than a commissioned officer; or
 - (b) for the purposes of section 21 (2) (a) of the Act.
- (2) The Commissioner may convene a board in terms of subsection (1) notwithstanding the acquittal of the member concerned by a trial officer or any court of law upon any charge of a criminal offence.
- (3) The Commissioner shall in the convening order —
- (a) appoint a commissioned officer (hereinafter referred to as the board) to conduct the enquiry;
 - (b) state the purpose of the enquiry;
 - (c) set forth with due particularity the grounds of complaint (hereinafter referred to as the charge) against the member whose fitness, unfitness, incapacity or misconduct, as the case may be, is the subject of the enquiry; and
 - (d) specify whether a recommendation is required from the board in addition to its finding and report.
- (4) The board shall —
- (a) assemble on such date and such time and place as the board may, with due regard to the provisions of paragraph (c), appoint;
 - (b) serve or cause to be served on the member concerned (hereinafter referred to as the defendant) a copy of the convening order; and
 - (c) give reasonable notice in writing to the defendant of the date, time and place appointed for the enquiry.

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- (5) The Commissioner may authorise any member holding a rank not lower than that of the defendant to adduce evidence and arguments in support of the charge and to cross-examine any person called as a witness for the defence.
- (6) The procedure at the enquiry shall be substantially as prescribed in section 34 (3) of this Code: Provided that, where the charge against the defendant is the misconduct of the defendant, a certified copy of the charge on which the defendant was convicted and of the conviction shall, on its mere production by any person to the board, be conclusive proof of such misconduct.
- (7) (a) At the conclusion of the enquiry the board shall without delay submit to the Commissioner —
 - (i) the record of the proceedings at the enquiry, together with the documentary evidence admitted thereat;
 - (ii) a statement of the findings and report of the board and the reasons for such findings;
 - (iii) the recommendation of the board, if it is required by the convening order to make a recommendation; and
 - (iv) any observations which the board may wish to make.(b) The board shall cause a copy of the statement, recommendation and observations referred to in paragraph (a) (ii), (iii) and (iv) to be delivered to the defendant or his legal representative.
- (8) The Commissioner shall thereafter deal with the matter in terms of the appropriate provision of section 21 of the Act and shall without delay convey his decision to the defendant in writing.
- (9) If the Commissioner, under the powers vested in him by section 21 (3) (b) of the Act —
 - (a) discharges the defendant from the Force, such discharge shall take effect as from a date to be determined by the Commissioner: Provided that, if the defendant appeals against the decision of the Commissioner, he shall, if he is not already under suspension, be deemed to have been suspended from office as from the date so determined by the Commissioner;
 - (b) reduces a member in rank, such reduction shall take effect as from the first day of a month to be specified by the Commissioner, but subject to the provisions of section 19 (4) of the Act.

APPEAL AGAINST DECISION OF COMMISSIONER TO DISCHARGE MEMBER
OR REDUCE HIM IN RANK

38. (1) Any member of the Force who feels aggrieved at any decision of the Commissioner under section 21 of the Act may, not later than fourteen days after the date upon which he was notified thereof, appeal to the Minister against such decision by lodging with the Commissioner his appeal in writing in which he shall set out clearly and in detail the grounds of the appeal as well as any representations which he might wish to make in the matter.
- (2) On receipt of such appeal and such representations (if any) the Commissioner shall submit to the Minister the record of the proceedings at the enquiry in question, as well as any other documents in his possession which relate to the enquiry or the appeal and the Minister may thereupon confirm, alter or set aside the decision of the Commissioner or make such other order as to him seems just.
- (3) The Minister shall without delay make his decision known to the Commissioner in writing and the Commissioner shall forthwith convey such decision to the appellant.
- (4) If the Minister allows the appeal and the appellant was suspended from office under any provision of the Act or this Code, the appellant shall forthwith resume duty and, unless the Minister has directed otherwise, be paid his full emoluments for the period of his suspension.

MISCELLANEOUS ENQUIRIES

39. (1) The Commissioner may, whenever occasion so requires, convene a board to enquire into, and to make a finding and a report on —
 - (a) any injury alleged to have been accidentally sustained or any disease or indisposition alleged to have been contracted by any member in the course or as a result of the execution of his duties, including any incapacitation or indisposition alleged to have been caused by the compulsory vaccination or inoculation of such member;
 - (b) the death of any member as the result of any of the circumstances contemplated in paragraph (a);
 - (c) the absence from duty of any member owing to illness, indisposition or injury which the Commissioner suspects is due to such member's own fault or his failure to take reasonable precautions;
 - (d) any deficiency in or damage to or loss of property in the charge or possession, or under the control, of the Force;
 - (e) any deficiency in or damage to or loss of property alleged to have been suffered by a member in connection with or as a result of the execution of his duties in the Force;
 - (f) any deficiency, loss, damage or expense suffered by the State as a result of any offence or other wrongful conduct, negligence or carelessness of any member; or
 - (g) any other matter concerning the Force, any member of the Force or any stores or equipment in the charge or possession, or under the control, of the Force, which in the opinion of the Commissioner should be the subject of an enquiry under this section.
- (2) A board appointed under subsection (1) shall consist of one or more commissioned officers nominated by the Commissioner: Provided that, if the board consists of two or more members, the senior of such members shall be the chairman

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of the Board: Provided further that the Commissioner may at his discretion appoint as an assessor on the board any officer of the State who in his opinion is an expert in any matter to be considered at the enquiry.

- (3) The procedure at an enquiry under this section shall be substantially as prescribed in respect of an enquiry under section 37 of this Code: Provided that, where such enquiry relates to any act or omission of a particular member or of particular members of the Force or where the evidence adduced at the enquiry affects or is likely to affect any particular member or members of the Force, such member or members shall have the right to be present at the enquiry and to be heard, to cross-examine or to call any witnesses and, at the conclusion of the enquiry, to address the board: Provided that such member or members shall not, unless the Commissioner has so authorised, be entitled to be legally represented at the enquiry.
- (4) The finding of the majority of the members of the board shall be the finding of the board.

COMPENSATORY AWARDS

40. (1) Subject to any instructions or rules relating to the use of Government transport, a member of the Force shall make good any deficiency, loss, damage or expense suffered by the State as a result of his negligence or carelessness or of any offence or other wrongful act committed by him -
 - (a) if the Commissioner so orders in any case in which it is the finding of a board of enquiry under section 39 of this Code that such member is liable to make good such deficiency, loss, damage or expense; or
 - (b) if, in circumstances other than those contemplated in paragraph (a), such member has been so ordered by the Commissioner after having been called upon on reasonable notice in writing to show cause why he should not be ordered to pay the amount in question.
- (2) Any two or more members of the Force who are jointly responsible for any deficiency, loss, damage or expense referred to in subsection (1) shall be ordered to make good the same jointly and severally, the one paying the other to be absolved.
- (3) Any member or members who feels or feel aggrieved at any order under this section shall have the right to appeal to the Minister against such order and the provisions of section 38 (1), (2) and (3) of this Code shall apply *mutatis mutandis* in respect of any appeal.
- (4) The amount ordered to be paid by any member under this section shall be a debt to the State and, subject to any directions of the Treasury may be recovered by stoppages from the salary or wages of such member.
- (5) Nothing in this section or in section 39 contained shall be construed as derogating in any way from the provisions of section 300 of the Criminal Procedure Act, 1977.

DESERTION

41. (1) If a member is absent without leave for longer than one calendar month and has not been arrested, the Commissioner may convene a board of enquiry in terms of section 39 to enquire into such absence and into any deficiency, loss, or damage which may exist in relation to -
 - (a) any uniform, kit, firearm, ammunition, equipment or any other State property whatsoever issued to such member or for which he is responsible; or
 - (b) any amount owing by such member to the State.
- (2) If the board of enquiry finds that such member has in fact been so absent and is still so absent, it shall record such finding (which shall specify the date of commencement of such absence), as well as its finding in relation to the deficiency, loss, or damage contemplated in subsection (1) and the amount or estimated amount thereof, and such member shall thereupon, for the purposes of the Act and any pensions law, be deemed to have been discharged from the Force on account of misconduct with effect from the aforesaid date: Provided that nothing herein contained shall be construed as derogating in any way from the provisions of section 9 of this Code.
- (3) Any public property, as well as movable private property, left by the member concerned shall be kept in safe custody by the commissioned officer under whose command such member was serving and such private property shall be dealt with in accordance with the provisions *mutatis mutandis* of section 47 of the Act: Provided that the Commissioner may direct that the proceeds of the sale of the private property (including any uniform) of such member be applied towards the recovery of any moneys owing by him to the State.

PRESUMPTION OF LACK OF AUTHORITY

42. The provisions of section 250 (1) of the Criminal Procedure Act, 1977 shall at any trial, enquiry or investigation conducted in terms of this Code apply *mutatis mutandis* in relation to the performance by any member of the Force of any act which, under any provision of this Code, would be an offence if such act were to be performed without the permission of the Commissioner or other competent authority.

CONDUCT SHEETS

43. (1) The Commissioner shall cause to be kept in respect of every member of the Force, in such form as he may from time to

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time prescribe, a conduct sheet upon which there shall be recorded, unless the Commissioner has in respect of any trivial offence or misconduct directed otherwise —

- (a) particulars of all the offences of which such member has been convicted, whether prior to or after his enrolment in the Force and of the sentences imposed in respect of such offences; and
 - (b) in the case of any commissioned officer particulars of any misconduct of which such officer has been found guilty and of the punishment imposed in respect thereof.
- (2) If, within a period of five years reckoned from the date of the last conviction or other finding recorded on a member's conduct sheet, such member is not again convicted of an offence or found guilty of misconduct all the convictions or other particulars recorded thereon shall be expunged.
- (3) Notwithstanding the provisions of subsections (1) and (2), the Commissioner may at his discretion determine the purpose for which any conviction or finding which is not recorded on a member's conduct sheet or which has been expunged shall be taken into account in respect of such member.

REDRESS OF GRIEVANCES AND CHANNELS OF COMMUNICATION

44. (1) Any member who feels aggrieved at any act or omission of any other member may complain in writing to his immediate commander: Provided that if the complaint relates to any act or omission of such commander or, if such commander is unable or does not have the authority to deal with the complaint or to satisfy the complainant without delay, such commander shall forthwith refer the complaint to his commanding officer and advise the complainant accordingly.
- (2) If such commanding officer is unable or does not have the authority to deal with the complaint or to satisfy the complainant, he shall without delay submit the complaint to the Commissioner and advise the complainant accordingly.
- (3) If the Commissioner is unable to satisfy the complainant he shall, if the complainant so requests and there appears *prima facie* to be justification for the complaint, submit the matter to the Minister whose decision thereon shall be final.
- (4) A complainant, who does not receive a satisfactory reply from his immediate commander within a reasonable time and who has not been advised as hereinbefore provided, may complain directly in writing to the commanding officer of his commander and thereafter to the Commissioner and shall at the same time furnish his commander with a copy of such further complaint.
- (5) The provisions of this section shall apply *mutatis mutandis* to any other grievance or representation which a member may desire to bring to the notice of higher authority in relation to his service or employment in the Force.

TRIALS OR ENQUIRIES COMMENCED PRIOR TO COMMENCEMENT OF CODE

45. (1) Any trial of, or any enquiry relating to, any member of the Force which was commenced prior to the date of promulgation of this Code shall be proceeded with and concluded in all respects as if this Code had not been enacted.
- (2) In respect of any trial or enquiry referred to in subsection (1) the finding and the sentence or other punishment shall be subject to confirmation, the sentence or any other punishment or any order shall be executed, the proceedings shall be reviewed and any appeal shall be disposed of as if this Code had not been enacted.
- (3) For the purposes of this section a trial or enquiry shall be deemed to have commenced if, as the case may be, the accused has pleaded or been required to plead to, or to admit or deny, the charge or charges against him or if any evidence has been recorded in the matter.

SCHEDULE 4

LAWS REPEALED

No. and Year of Law	Short Title	Extent of repeal
Act 7 of 1958	Police Act, 1958	The whole
Act 43 of 1958	Police Amendment Act, 1958	The whole
Act 53 of 1961	Police Amendment Act, 1961	The whole
Act 64 of 1964	Police Amendment Act, 1964	The whole
Act 74 of 1965	Police Amendment Act, 1965	The whole
Act 74 of 1967	Police Amendment Act, 1967	The whole
Act 80 of 1970	Police Amendment Act, 1970	The whole
Act 92 of 1970	General Law Further Amendment Act, 1970	Section 7 repealed
Act 94 of 1972	Police Amendment Act, 1972	The whole
Act 34 of 1973	Police Amendment Act, 1973	The whole
Act 68 of 1974	Police Amendment Act, 1974	The whole
Act 15 of 1975	Police Amendment Act, 1975	The whole

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No. and Year of Law	Short Title	Extent of repeal
Act 34 of 1976	Police Amendment Act, 1976	The whole
Act 7 of 1977	Ciskeian Police Act, 1977	The whole
Act 90 of 1977	Police Amendment Act, 1977	The whole
Act 14 of 1978	Police Amendment Act, 1978	The whole
Act 64 of 1979	Police Amendment Act, 1979	The whole
Act 50 of 1980	Police Amendment Act, 1980	The whole
Act 82 of 1980	Second Police Amendment Act, 1980	The whole
Act 5 of 1981	Law Enforcement Act, 1981	The whole repealed except in so far as it applies to prisons, prisoners and prison officials.
Act 47 of 1981	Police Amendment Act, 1981	The whole

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