

New Zealand
Police Act 1958 109
Commenced: 1 Dec 1958

I: Appointment, Promotion, and Resignation of Members of the Police
3 Commissioner

PART I

APPOINTMENT, PROMOTION, AND RESIGNATION OF MEMBERS OF THE POLICE

3. Commissioner---(1) The Governor-General may from time to time appoint a fit and proper person to be the Commissioner of Police, who shall have the general control of the Police.

[[(2) The Governor-General may from time to time appoint one or more fit and proper persons as Deputy Commissioners of Police. Each Deputy Commissioner shall have and may exercise such of the powers, authorities, duties, and functions of the Commissioner as the Commissioner may delegate to him either generally or in any particular case.

(3) Every delegation under subsection (2) of this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner.

(4) In the case of absence from duty of the Commissioner (whether by reason of illness, absence from New Zealand, or for any other reason whatever) or in the case of a vacancy in the office of Commissioner (whether by reason of death, resignation, or otherwise) and for so long as the absence or vacancy continues, the Deputy Commissioner [[longest in office as such]] shall have and may exercise all the powers, authorities, duties, and functions of the Commissioner.

(5) The fact that [[a Deputy Commissioner]] exercises any power, authority, duty, or function, pursuant to this section, shall, in the absence of proof to the contrary, be sufficient evidence of his authority to do so.]

Cf. 1947, No. 13, ss. 3, 4

Subss. (2)-(5) were substituted for the original subs. (2) by s. 2

of the Police Amendment Act 1973.

Subs. (2) was substituted for the former subs. (2) (as substituted

by s. 2 (1) of the Police Amendment Act 1973) by s. 2 (1) of the Police Amendment Act 1981.

In subs. (4) the words in double square brackets were inserted by

s. 2 (2) of the Police Amendment Act 1981.

In subs. (5) the words in double square brackets were substituted

for the words ``the Deputy Commissioner'' by s. 2 (3) of the Police Amendment Act 1981.

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4 Assistant Commissioners

4. Assistant Commissioners---(1) The Governor-General may from time to time appoint one or more fit and proper persons as Assistant Commissioners of Police.

(2) Each Assistant Commissioner shall have and may exercise such of the powers, authorities, duties, and functions of the Commissioner as the Commissioner may delegate to him either generally or in any particular case.

[(3) The fact that an Assistant Commissioner exercises any power, authority, duty, or function pursuant to this section, shall, in the absence of proof to the contrary, be sufficient evidence of his authority to do so.]

(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner.

Cf. 1947, No. 13, s. 3A; 1954, No. 32, s. 2 (1)

Subs. (3) was substituted for the original subs. (3) by s. 3 of the Police Amendment Act 1973.

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4A Deputy Assistant Commissioners

[4A. Deputy Assistant Commissioners---The Governor General may from time to time appoint, from the commissioned officers for the time being

holding the rank of Chief Superintendent or Superintendent, such Deputy Assistant Commissioners of Police as he considers necessary.]

This section was inserted by s. 2 (1) of the Police Amendment Act

1976. . Certain commissioned officers to hold office during pleasure of Governor-General---The Commissioner, [[each Deputy Commissioner]], each Assistant Commissioner, each Deputy Assistant Commissioner, and each Chief Superintendent shall hold office during the pleasure of the Governor General.]

This section was substituted for the original s. 6 by s. 2 (2) of

the Police Amendment Act 1976.

The words in double square brackets were substituted for the words

``the Deputy Commissioner'' by s. 2 (4) of the Police Amendment Act

1981. . Certain commissioned officers to hold office during pleasure of

Governor-General---The Commissioner, [[each Deputy Commissioner]], each

Assistant Commissioner, each Deputy Assistant Commissioner, and each Chief Superintendent shall hold office during the pleasure of the Governor General.]

This section was substituted for the original s. 6 by s. 2 (2) of

the Police Amendment Act 1976.

The words in double square brackets were substituted for the words

``the Deputy Commissioner'' by s. 2 (4) of the Police Amendment Act

1981. . Certain commissioned officers to hold office during pleasure of

Governor-General---The Commissioner, [[each Deputy Commissioner]], each

Assistant Commissioner, each Deputy Assistant Commissioner, and each Chief Superintendent shall hold office during the pleasure of the Governor General.]

This section was substituted for the original s. 6 by s. 2 (2) of

the Police Amendment Act 1976.

The words in double square brackets were substituted for the words

``the Deputy Commissioner'' by s. 2 (4) of the Police Amendment Act

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13A Promotion Board may rescind recommendations

[13A. Promotion Board may rescind recommendations---(1) This section shall apply to every recommendation of the Promotion Board to which section 13 of this Act applies.

(2) If for any reason the Promotion Board ceases to be of the opinion that any person it has recommended for appointment to a position is, having regard to the duties of the position, the most efficient and suitable person for appointment, it may at any time before, but not after, the person has been appointed, rescind the recommendation.

(3) If any recommendation has been notified in the Police Gazette before being rescinded, the Commissioner shall as soon as practicable after rescission notify in the Police Gazette that the recommendation has been rescinded.

(4) Every recommendation rescinded under this section shall as from the date of its rescission be without force and effect; but any member of the Police in respect of whom any recommendation has been rescinded, other than a constable on probation, a temporary member of the Police, or a cadet, may, in accordance with section 14 of this Act, appeal against any other recommendation for appointment made at the same time as the recommendation for his own appointment was made, or after the recommendation for his own appointment was made but before notice is given to him that the recommendation for his own appointment has been rescinded.]

This section was inserted by s. 2 of the Police Amendment Act 1972.

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III: General

Regulation and Discipline of Members

31 Members not to engage in politics

31. Members not to engage in politics---Subject to the provisions of sections 30 and 31 of the Electoral Act 1956, no member of the Police shall, while he remains a member, take part in any election of a member

of Parliament or of a local authority prescribed in that behalf by regulations under this Act, whether as a candidate or in any other manner, otherwise than by voting:

Provided that nothing in this section shall apply to the discharge by any member of the Police of his duty at or concerning any such election.

Cf. 1947, No. 13, s. 32

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Regulation and Discipline of Members

32 Suspension pending hearing of charge

32. Suspension pending hearing of charge---[(1) The Commissioner may suspend from duty any member of the Police who he considers has been guilty of misconduct or neglect of duty, with or without pay, or without

such part of his pay, as the Commissioner so directs, until such time as, in respect of the alleged misconduct or neglect, the member has been

sentenced or otherwise dealt with by a Court or a decision as to guilt and penalty has been made under section 33 of this Act:]

[Provided that the Commissioner may, at any time while the suspension

remains in force, vary or rescind his decision under this section, or determine that the suspension shall cease on a date earlier than the date on which it would otherwise cease.]

(2) The authority conferred on the Commissioner by subsection (1) of this section may, with the prior consent of the Commissioner in each case, be exercised by any commissioned officer.

(3) Except where the conduct of the member is the subject of criminal

proceedings or where any delay in concluding an inquiry occurs through any circumstances beyond the control of the Commissioner, no period of suspension under this section shall continue for longer than 21 days.

[(3A) Where the conduct of the member is the subject of criminal proceedings the period of suspension under this section may be extended

for such further period, not exceeding 28 days after the date on which the proceedings are finally determined, as the Commissioner considers necessary to enable him to consider whether the member should be dismissed under section 35 of this Act.]

[(4) Notwithstanding anything in subsection (1) of this section, if the Commissioner directs that any member be suspended without all or any part of his pay, the member or such person as the member may appoint to represent him may within 7 days after the member receives that direction, make oral or written submissions to the Commissioner as to why he should receive all or some more of his pay.

(5) The Commissioner shall within 7 days after the receipt of any submission made under subsection (4) of this section consider the submission and inform the member or his representative of his decision.

If the Commissioner decides that the member should receive all or some more of his pay the member shall be entitled to receive all or some more of his pay in accordance with that decision.

(6) Notwithstanding anything in subsection (1) or subsection (5) of this section, where under this section a member is suspended from duty and no conviction is recorded in any Court and no charge is proved at an inquiry under section 33 of this Act, the member shall be entitled to receive full pay in respect of the period of suspension but otherwise he shall not receive nor be entitled to receive more pay than that first directed by the Commissioner to be received by the member in respect of that period unless and to the extent that the Commissioner further directs pursuant to this subsection.

(7) Notwithstanding anything in this section, in the event of any appeal being commenced from the decision of any Court sentencing or otherwise dealing with the member, or from any decision as to the guilt of or the penalty to be imposed on the member made under section 33 of this Act, the suspension of the member shall continue until the appeal has been determined on the same or such new terms as to pay as the Commissioner shall so direct under this subsection.]

Subs. (1) was substituted for the original subs. (1) by s. 4 (1) of the Police Amendment Act 1973, and the proviso was added by s.

5 of the Police Amendment Act 1978.

Subs. (3A) was inserted by s. 4 of the Police Amendment Act 1976.

Subss. (4)-(7) were substituted for the former subs. (4) (as substituted for the original subs. (4) by s. 4 of the Police Amendment Act 1964) by s. 4 (2) of the Police Amendment Act 1973.

In subss. (6) and (7) it would appear that the word ``subsection'', where it last occurs in each case, has been printed

in error for the word ``section''.

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Regulation and Discipline of Members

33 Inquiries as to breaches of duty

33. Inquiries as to breaches of duty---(1) Where misconduct or neglect of duty is alleged against any commissioned officer below the rank of Chief Superintendent, and the officer does not admit the allegation, the following provisions shall apply:

(a) The Minister, if in his opinion an inquiry under this section should be held, may appoint 2 or more persons, of whom only one shall be a member of the Police, [and of whom one shall be appointed to act as Chair man at the inquiry,] to inquire into the charge and to report to him as to whether or not the charge has been proved:

(b) If the persons so appointed report that the charge has been proved, the Minister may dismiss the offender from the Police or impose any one or more of the following penalties---

otherwise:

(i) Reduction to any rank, whether commissioned or years:

(ii) Reduction in seniority by any specified number of years:

(iii) Reduction in pay to any specified step in the pay scale for a specified period:

(iv) A fine not exceeding [\$500].

(2) Where misconduct or neglect of duty is alleged against a non-commissioned officer, and he does not admit the allegation, the following provisions shall apply:

(a) The Commissioner, if in his opinion an inquiry under this section should be held, may appoint any person (whether a member of the Police or not) to inquire into the charge and to report to him as to whether or not the charge has been proved:

(b) If the person so appointed reports that the charge has been proved, the Commissioner may dismiss the offender from the Police or impose any one or more of the following penalties---

(i) Reduction to any rank, whether non-commissioned or otherwise:

(ii) Reduction in seniority by any specified number of years:
(iii) Reduction in pay to any specified step in the pay scale
for a specified period:
(iv) A fine not exceeding [\$500].

(3) Where misconduct or neglect of duty is alleged against a constable and he does not admit the allegation, the following provisions shall apply:

(a) Any commissioned officer, or any person not a member of the Police appointed in that behalf by the Commissioner, may inquire into the charge and report to the Commissioner as to whether or not the charge has been proved, or, if the charge has been established at the inquiry, may, if he thinks it just to do so, discharge the offender [on payment of such sum as he thinks just and reasonable towards the costs of the inquiry, or discharge the offender without penalty,] or direct that the charge be dismissed and a direction that the charge be dismissed shall have the same effect as if the charge had not been proved:

(b) If any such officer or person reports that the charge has been proved, the Commissioner may dismiss the offender from the Police or impose any one or more of the following penalties---

- (i) Reduction in seniority by any specified number of years:
- (ii) Reduction in pay to any specified step in the pay scale for a specified period:
- (iii) A fine not exceeding [\$500].

[(3A) Notwithstanding anything in subsection (2) or subsection (3) of this section, in any case to which either of those subsections applies the Commissioner may, if he thinks it desirable to do so, appoint 2 or more persons, of whom only one shall be a member of the Police, and of whom one shall be appointed to act as Chairman at the inquiry, to conduct the inquiry.]

(4) Where misconduct or neglect of duty is alleged against a member of the Police below the rank of Chief Superintendent and he admits the charge, he shall be dealt with in the same manner as if he had denied the charge and the charge had been proved in accordance with the foregoing provisions of this section.

(5) Where any charge has been established in accordance with any of the foregoing provisions of this section, the Minister, or, as the case may be, the Commissioner, may if he thinks it just so to do discharge the offender [on payment of such sum as he thinks just and reasonable towards the costs of the inquiry, or discharge the offender without penalty,] or direct that the charge be dismissed and a direction that the charge be dismissed shall have the same effect as if the charge had not been proved.

[(5A) If any charge has not been established in accordance with any of the foregoing provisions of this section, the person or persons inquiring into the charge may, if it seems just to do so, order that the member of the Police against whom the charge has been brought, be paid such sum towards the costs of his defence as appears just and reasonable.]

(6) The provisions of subsections (1) to (5) [and subsection (10)] of section 48 of this Act, as far as they are applicable and with the necessary modifications, shall apply to any person or persons holding an inquiry under this section, as if that person or those persons were an Appeal Board.

Cf. 1947, No. 13, s. 21

In subs. (1) (a) the words in square brackets were inserted by s.

5 (1) of the Police Amendment Act 1976.

In subs. (1) (b) (iv) the expression ``\$500'' was substituted

for ``\$400'' (as variously substituted) by s. 3 (1) (a) of the Police Amendment Act 1983.

In subs. (2) (b) (iv) the expression ``\$500'' was substituted

for ``\$250'' (as variously substituted) by s. 3 (1) (b) of the Police Amendment Act 1983.

In subs. (3) (a) the words in square brackets were substituted

for the words ``without penalty'' by s. 4 (1) of the Police Amendment Act 1972.

In subs. (3) (b) (iii) the expression ``\$500'' was substituted

for ``\$175'' (as variously substituted) by s. 3 (1) (c) of the Police Amendment Act 1983.

Subs. (3A) was inserted by s. 5 (2) of the Police Amendment Act 1976.

In subs. (5) the words in square brackets were substituted for

the words ``without penalty'' by s. 4 (2) of the Police Amendment Act 1972.

Subs. (5A) was inserted by s. 4 (3) of the Police Amendment Act 1972.

In subs. (6) the words in square brackets were inserted by s. 4 (4) of the Police Amendment Act 1972.

As to cadets, see reg. 58 (2) of S.R. 1985/259.

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Regulation and Discipline of Members
**34A Appeal by Commissioner against finding of
disciplinary proceedings**

[34A. Appeal by Commissioner against finding of disciplinary proceedings---(1) Where any inquiry has been held under section 33 of this Act into the conduct of any member of the Police and the Commissioner is dissatisfied with the finding, or with any part of the finding, of the inquiry as being erroneous in point of law, he may appeal to the Appeal Board against the finding, or that part of the finding, of the inquiry on a question of law only.

(2) Every such appeal shall be commenced by a notice of appeal delivered to the Appeal Board within 21 days after the findings of the inquiry are given. The Commissioner shall serve a copy of the notice on the member of the Police whose conduct was the subject of the inquiry.

(3) The Appeal Board shall hear and determine the question or questions of law arising on any case referred to it under this section and shall---

- (a) Confirm the finding of the inquiry in relation to the question or questions of law raised in the appeal; or
- (b) Recommend to the Minister that the matter be referred back to the person or persons who conducted the original inquiry for the rehearing of the matter in accordance with the Appeal Board's determination of that question or those questions; or
- (c) Make such other recommendations to the Minister in relation to the case as it thinks appropriate;---

and the Minister may thereupon direct that no further action be taken or, as the case may require, that the matter be reheard or that effect be otherwise given to the recommendations of the Appeal Board.

(4) Where a case is referred back for rehearing---

- (a) The provisions of sections 32 to 34 of this Act, so far as they are applicable and with the necessary modifications, shall apply:
- (b) The procedure to be followed at the rehearing shall be the same as that laid down by or under this Act for the conduct of inquiries under section 33 of this Act, subject to such modifications as the person or persons rehearing the matter may think necessary or desirable:

Provided that the person or persons rehearing the matter may, but shall not be obliged to, accept any evidence that was presented to the person or persons who conducted the original inquiry without requiring it to be formally presented, heard, or proved again:

(c) The Minister or, as the case may require, the Commissioner may, if he is satisfied that the person or any of the persons who conducted the original inquiry is, by reason of absence, illness, or other sufficient cause, incapable of rehearing the matter, appoint any other person whom, in accordance with the provisions of section 33 of this Act, he could have appointed to conduct the original inquiry.]

This section was inserted by s. 7 of the Police Amendment Act 1976.

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Offences

54 Unlawful dealings with prisoners

54. Unlawful dealings with prisoners---(1) Every person who holds or attempts to hold any communication with any prisoner in the custody or charge of any member of the Police, or who delivers or in any manner attempts to deliver or causes to be delivered to any such prisoner any article or thing what soever without the permission of that member of the Police or some responsible member of the Police in charge of that member, commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding [\$400], or to both.

(2) Any member of the Police may arrest without warrant any person who he has reasonable cause to believe is committing or has committed an offence against this section.

Cf. 1947, No. 13, s. 34

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Offences

55 Bribing members of the Police

55. Bribing members of the Police---Every person who, not being a member of the Police,---

- (a) Gives or offers or promises to give any member of the Police any bribe, pecuniary or otherwise, or makes any agreement with any member of the Police to induce him in any way to forego his duty; or
- (b) Requests or incites or induces any member of the Police, or the members of the Police generally, or any section thereof, to act in any manner contrary to duty; or
- (c) Connives at any act whereby any regulation or instruction in relation to the Police may be evaded,---

commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 2 years.

Cf. 1947, No. 13, s. 30

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Miscellaneous

56 Committees of Inquiry

56. Committees of Inquiry---(1) The Minister may from time to time appoint a Committee of Inquiry, consisting of a [District Court Judge] and one or more members of the Police, for the purpose of investigating

and reporting to the Commissioner on any matter connected with the Police [but any such Committee shall not investigate any matter in respect of which a principal order may be made by the Police Staff Tribunal under Part IV of this Act].

(2) The provisions of subsections (1), (2), (4), (5), and (6) of section 48 of this Act shall, with the necessary modifications, apply to any Committee of Inquiry as if it were the Appeal Board.

(3) Subject to the provisions of this section and of regulations under this Act, a Committee of Inquiry may regulate its procedure in such manner as it thinks fit.

In subs. (1) the words in the second set of square brackets were substituted for the original words by s. 4 of the Police Amendment Act 1965.

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Police Complaints Authority

4. Police Complaints Authority---(1) There shall be an authority to be known as the Police Complaints Authority.

(2) The Authority shall be a person appointed by the Governor-General on the recommendation of the House of Representatives.

(3) No person shall be appointed as the Authority unless that person---

- (a) Is qualified as a barrister or solicitor of the High Court; and
- (b) Possesses suitable legal experience for the task.

(4) The appointment of a Judge as the Authority shall not affect the Judge's tenure of judicial office, rank, title, status, precedence, salary, annual or other allowances, or other rights or privileges as a Judge (including matters relating to superannuation) and, for all purposes, service by a Judge as the Authority shall be taken to be service as a Judge.

(5) No person shall be deemed to be employed in the service of the Crown for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of that person's appointment as the Authority.

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5 Term of office of Authority

5. Term of office of Authority---(1) Every person appointed as the Authority shall be appointed for a term of not less than 2 years and not more than 5 years, and may be reappointed.

(2) Every person appointed as the Authority shall, unless sooner vacating office by death, resignation, removal, or failure to be confirmed in office under section 7 (3) of this Act, continue to hold office, notwithstanding the expiry of that person's term of appointment,

until---

(a) Reappointment as the Authority; or

(b) Appointment of a successor; or

(c) The person is informed in writing by the Minister of Justice that

the person is not to be reappointed and is not to hold office until a successor is appointed.

(3) The person appointed as the Authority---

(a) May resign the office at any time by written notice given to the Governor-General:

(b) Shall resign the office on attaining the age of 72 years.

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Police Complaints Authority

8 Deputy Police Complaints Authority

8. Deputy Police Complaints Authority---(1) There may from time to time be appointed a deputy to the person appointed as the Police Complaints Authority, who, subject to the control of the Authority, shall have and may exercise all the powers, duties, and functions of the

Authority under this Act (including the power of delegation conferred by section 36 of this Act).

(2) The Deputy Authority shall be appointed in the same manner as the

Authority, and sections 4 to 7 of this Act shall apply to the Deputy

Authority in the same manner as they apply to the Authority.

(3) On the occurrence from any cause of a vacancy in the office of Authority, and in case of the absence from duty of the person appointed as the Authority (from whatever cause arising), and for so long as any such vacancy or absence continues, the Deputy Authority shall have and may exercise all the powers, duties, and functions of the Authority.

(4) The fact that the Deputy Authority exercises any power, duty, or function of the Authority shall be conclusive evidence of his or her authority to do so.

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Police Complaints Authority
10 Staff

10. Staff---(1) Subject to the provisions of this section, the Authority may appoint such officers and employees as may be necessary for the efficient carrying out of its functions, powers, and duties under this Act.

(2) The number of persons that may be appointed under this section, whether generally or in respect of any specified duties or class of duties, shall from time to time be determined by the Minister of Justice.

(3) Officers and employees appointed under subsection (1) of this section shall be employed on such terms and conditions of employment and shall be paid such salaries and allowances as the Authority from time to time determines in agreement with the State Services Commission, or as the Minister of Justice from time to time determines in any case where the Authority and the State Services Commission fail to agree.

(4) No person shall be deemed to be employed in the service of the Crown for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of that person's appointment under this section.

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Police Complaints Authority Act 1988 002
Functions of Authority

12 Functions of Authority

Functions of Authority

12. Functions of Authority---(1) The functions of the Authority shall be---
- (a) To receive complaints---
 - (i) Alleging any misconduct or neglect of duty by any member of the Police; or
 - (ii) Concerning any practice, policy, or procedure of the Police affecting the person or body of persons making the complaint in a personal capacity:
 - (b) To investigate of its own motion, where it is satisfied that there are reasonable grounds to carry out an investigation in the public interest, any incident involving death or serious bodily harm notified to the Authority by the Commissioner under section 13 of this Act:
 - (c) To take such action in respect of complaints, incidents, and other matters as is contemplated by this Act.
- (2) In the course of taking action in respect of any complaint the Authority may investigate any apparent misconduct or neglect of duty by a member of the Police, or any Police practice, policy, or procedure, which appears to the Authority to relate to the complaint, notwithstanding that the complaint itself does not refer to that misconduct, neglect, practice, policy, or procedure.
- (3) Nothing in subsection (1) of this section shall authorise the Authority to investigate any matter relating to the terms and conditions of service of any person as a member of the Police.

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Functions of Authority

14 Mode of complaint

14. Mode of complaint---(1) A complaint may be made either orally or in writing.

(2) A complaint made orally shall be reduced to writing as soon as practicable.

(3) A complaint may be made to the Authority, to any member of the Police, to an Ombudsman, or, where the complaint is in writing, to the Registrar or Deputy Registrar of any District Court.

(4) Any Ombudsman or Registrar or Deputy Registrar to whom a complaint is made shall forward it to the Authority as soon as practicable.

(5) Notwithstanding any provision in any enactment, where any letter appearing to be written by or on behalf of---

(a) A person in custody on a charge or after conviction of any offence; or

(b) A patient of any hospital within the meaning of the Mental Health Act 1969,---

is addressed to the Authority, the person for the time being in charge of the place or institution where the person is in custody or is a patient shall immediately forward the letter, unopened, to the Authority

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[17 Action upon receipt of complaint](#)

17. Action upon receipt of complaint---(1) On receiving or being notified of a complaint under this Act, the Authority may do all or any

of the following:

(a) Investigate the complaint itself, whether or not the Police have commenced a Police investigation:

(b) Defer action until the receipt of a report from the Commissioner

on a Police investigation of the complaint:

(c) Oversee a Police investigation of the complaint:

(d) Decide, in accordance with section 18 of this Act, to take no action on the complaint.

(2) The Authority shall, as soon as practicable, advise the Commissioner and the complainant of the procedure it proposes to adopt under subsection (1) of this section.

(3) Where any complaint appears to the Authority to be capable of resolution by conciliation in accordance with any conciliation procedure established by or under the Police Act 1958, it may indicate that view to th

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Functions of Authority

19 Subsequent powers in relation to complaint

19. Subsequent powers in relation to complaint---The Authority may at any time---

- (a) Review a Police investigation of a complaint:
- (b) Decide to investigate a complaint itself:
- (c) Where it oversees a Police investigation, give such directions to the Police concerning the investigation as it thinks fit:
- (d) Direct the Police to re-open an investigation, and thereafter oversee the investigation:
- (e) Direct the Police to reconsider their proposals for action on a complaint:
- (f) Decide, in accordance with section 18 of this Act, to take no further action on the complaint:
- (g) Decide that no action by the Authority is required on the ground that it considers that the outcome of a Police investigation is satisfactory.

e Commissioner.

Police Complaints Authority Act 1988 002
Functions of Authority

20 Duty of Commissioner to report to Authority on Police investigation of complaint

20. Duty of Commissioner to report to Authority on Police investigation of complaint---(1) The Commissioner shall as soon as practicable, and in no case later than 2 months, after the completion of a Police investigation of a complaint, report to the Authority---

- (a) Whether the complaint has been upheld and, if so, what action has been taken or is proposed to be taken to rectify the matter:
- (b) Whether the complaint has been settled by conciliation.

(2) When reporting to the Authority under this section, the Commissioner shall supply to the Authority accompanying material

sufficient to enable the Authority to assess the adequacy of the Police investigation.

(3) The Commissioner may consult the Authority on any Police proposals for action on a complaint before reporting to the Authority under this section.

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Police Complaints Authority Act 1988 002
Functions of Authority

21 Commissioner to provide information and assistance at request of Authority

21. Commissioner to provide information and assistance at request of Authority---(1) The Commissioner shall, whenever the Authority so requests, provide to the Authority all such information and assistance as is necessary for the proper performance by the Authority of its functions in relation to its investigation of any complaint, incident, or other matter under this Act.

(2) Where the Authority oversees a Police investigation of a complaint, the Commissioner shall, whenever the Authority so requests, provide to the Authority---

- (a) Any or all information in the possession or under the control of the Police that is relevant to the complaint:
- (b) A report on the progress of the investigation.

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Police Complaints Authority Act 1988 002
Proceedings of Authority

23 Proceedings of Authority

Proceedings of Authority

23. Proceedings of Authority---(1) Before proceeding to investigate any matter under this Act the Authority shall inform the Commissioner, the complainant (if any), and, unless the interests of justice otherwise require, any person alleged to be aggrieved (if not the complainant) of its intentions to make the investigation.

(2) Every investigation by the Authority under this Act shall be

conducted in private.

(3) Subject to section 31 of this Act,---

(a) The Authority may hear or obtain information from such persons as

it thinks fit, including, where it considers that cultural matters are a factor relevant to a complaint or investigation, information from such persons as the Authority thinks have knowledge or experience in those matters:

(b) It shall not be necessary for the Authority to hold any hearing:

(c) No person shall be entitled as of right to be heard by the Authority.

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Police Complaints Authority Act 1988 002

Proceedings of Authority

24 Powers of Authority in relation to investigations

24. Powers of Authority in relation to investigations---(1) The Authority may require any person who in its opinion is able to give information relating to any matter under investigation by the Authority to furnish such information, and to produce such documents or things in the possession or under the control of that person, as in the opinion of the Authority are relevant to the subject-matter of the investigation.

(2) The Authority may summon before it and examine on oath any person who in its opinion is able to give any information relating to the matter under investigation, and may for the purpose administer an oath to any person so summoned.

(3) Every such examination by the Authority shall be deemed to be a judicial proceeding within the meaning of section 108 of the Crimes Act

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Police Complaints Authority Act 1988 002

Procedure on Completion of Investigation

27 Procedure after investigation by Authority

Procedure on Completion of Investigation

27. Procedure after investigation by Authority---(1) Where the Authority itself undertakes an investigation under this Act it shall form an opinion on whether or not any decision, recommendation, act, omission, conduct, policy, practice, or procedure which was the subject-matter of the investigation was contrary to law, unreasonable, unjustified, unfair, or undesirable.

(2) The Authority shall convey its opinion, with reasons, to the Commissioner, and may make such recommendations as it thinks fit, including a recommendation that disciplinary or criminal proceedings be considered or instituted against any member of the Police.

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Police Complaints Authority Act 1988 002
Procedure on Completion of Investigation

28 Procedure after investigation by Police

28. Procedure after investigation by Police---(1) Where the Commissioner reports to the Authority, pursuant to section 20 of this Act, on a Police investigation of a complaint, the Authority shall form an opinion on whether or not any decision, recommendation, act, omission, conduct, policy, practice, or procedure which was the subject-matter of the investigation was contrary to law, unreasonable, unjustified, unfair, or undesirable.

(2) After considering the Commissioner's report and forming its opinion, the Authority---

(a) Shall indicate to the Commissioner whether or not it agrees with the Commissioner's decision or proposed decision in respect of the complaint:

(b) May, where it disagrees with the Commissioner's decision or proposed decision, make such recommendations, supported by reasons, as it thinks fit, including a recommendation that disciplinary or criminal proceedings be considered or

instituted against any member of the Police.

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Police Complaints Authority Act 1988 002
Procedure on Completion of Investigation

29 Implementation of recommendations of Authority

29. Implementation of recommendations of Authority---(1) The

Commissioner shall, as soon as reasonably practicable after receiving any recommendation of the Authority under section 27 (2) or section 28 (2) of this Act,---

- (a) Notify the Authority of the action (if any) proposed to be taken to give effect to the recommendation; and
- (b) Give reasons for any proposal to depart from, or not to implement, any such recommendation.

(2) If, within a reasonable time after a recommendation is made, no action is taken which seems to the Authority to be adequate and appropriate, the Authority may, after considering any comments made by the Commissioner,---

- (a) Send a copy of its opinion and recommendations on the matter, together with the comments of the Commissioner, to the Attorney-General and the Minister of Police; and
- (b) Where it considers it appropriate, transmit to the Attorney-General for tabling in the House of Representatives such report on the matter as it thinks fit.

(3) The Attorney-General shall, as soon as practicable after receiving a report under subsection (2) (b) of this section, lay the report before the House of Representatives.

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Police Complaints Authority Act 1988 002

Miscellaneous Provisions

34 Publication of reports by Authority and by Commissioner

34. Publication of reports by Authority and by Commissioner---(1)
The

Authority may from time to time, in the public interest or in the interests of any person, publish reports relating to---

- (a) The general exercise of its functions under this Act; or
- (b) Any particular case or cases in relation to which it has exercised its functions under this Act,---

whether or not the matters dealt with in the report have been the subject of a report to the Attorney-General and the Minister of Police, or to the House of Representatives, under section 29 of this Act.

(2) The Commissioner may, after receiving from the Authority any opinion or recommendation given under section 27 or section 28 of this Act, publish all or any part of the opinion or recommendation.

(3) In determining the desirability or extent of publication under subsection (2) of this section, the Commissioner shall take into account any recommendation of the Authority concerning publication.

(4) Neither the Authority nor the Commissioner shall, in any report published under this section, disclose any matter which is likely to prejudice any of the interests described in subsection (1) of section 26 of this Act, whether or not any certificate has been given under that subsection.

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[35 Annual report](#)

35. Annual report---(1) Without limiting the right of the Authority to report at any time under section 29 or section 34 of this Act, the Authority shall in each year furnish to the Minister of Justice a report on the exercise of its functions under this Act.

(2) A copy of every such report shall be laid before the House of Representatives as soon as practicable after the date on which it is furnished to the Minister.

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[36 Delegation of powers by Authority](#)

36. Delegation of powers by Authority---(1) With the prior approval of the Minister of Justice, the Authority may from time to time, by writing under the Authority's hand, delegate to any person holding office under the Authority any of the Authority's powers under this Act, except this power of delegation and the power to make any report or recommendation under this Act.

(2) Any delegation under this section may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class.

(3) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Authority.

(4) Any such delegation may be made subject to such restrictions and conditions as the Authority thinks fit, and may be made either generally or in relation to any particular case or class of cases.

(5) Until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Authority ceasing to hold office, it shall continue to have effect as if made by the Authority's successor in office.

(6) Any person purporting to exercise any power of the Authority by virtue of a delegation under this section shall, when required to do so, produce evidence of that person's authority to exercise the power.

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[37 Offences](#)

37. Offences---Every person commits an offence under this Act and is liable on summary conviction to a fine not exceeding \$2,000 who,---

(a) Without reasonable excuse, obstructs, hinders, or resists the Authority or any other person in the exercise of their powers under this Act:

(b) Without reasonable excuse, refuses or fails to comply with any requirement of the Authority or any other person under this

Act:

(c) Makes any statement or gives any information to the Authority, or

to any other person exercising powers under this Act, knowing that the statement or information is false or misleading.

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1961 (which relates to perjury).

Functions of Authority

18 Authority may decide to take no action on complaint

18. Authority may decide to take no action on complaint---(1) The Authority may in its discretion decide to take no action, or, as the case may require, no further action, on any complaint if---

- (a) The complaint relates to a matter of which the person alleged to be aggrieved has had knowledge for more than 12 months before the complaint was made; or
- (b) In the opinion of the Authority---
 - (i) The subject-matter of the complaint is trivial; or
 - (ii) The complaint is frivolous or vexatious or is not made

in

good faith; or

- (iii) The person alleged to be aggrieved does not desire

that

action be taken or, as the case may be, continued; or

- (iv) The identity of the complainant is unknown and investigation of the complaint would thereby be substantially impeded; or

- (v) There is in all the circumstances an adequate remedy or right of appeal, other than the right to petition the House of Representatives, which it would be reasonable for the person alleged to be aggrieved to exercise.

(2) The Authority may decide not to take any further action on a complaint if, in the course of the investigation of the complaint by the

Authority or the Police, or as a result of the Commissioner's report on

a Police investigation, it appears to the Authority that, having regard

to all the circumstances of the case, any further action is unnecessary

or inappropriate.

(3) In any case where the Authority decides to take no action, or no further action, on a complaint, it shall inform the complainant of that

decision and the reasons for it.