

# **The GOA POLICE BILL, 2008**

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# The GOA POLICE BILL, 2008

(Bill No. 39 of 2008)

A

BILL

WHEREAS it is expedient to redefine the role of the police, its duties and responsibilities by taking into account the emerging challenges of policing and security of State, the imperatives of good governance, and respect for human rights; to empower the police personnel to carry out functions as an efficient, effective, people-friendly and responsive agency and for matter connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Fifty-ninth Year of the Republic of India, as follows:—

## CHAPTER I

### Preliminary

1. *Short title, extent, and commencement.*—(1) This Act may be called the Goa Police Act, 2008.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) “Act” means the Goa Police Act, 2008;

(b) “Cattle” include cows, buffalos, elephants, camels, horses, asses, mules, sheep, goats and swine;

(c) “Chief Secretary” means the Chief Secretary to the State Government;

(d) “Core functions” means duties related to sovereign functions of the State including arrests, search, seizure, crime investigation, crowd control and allied functions that may only be performed by the police as the agency of the State;

(e) “Cyber Crime” shall mean and include all offences under the Information Technology Act, 2000 (Central Act No.21 of 2000), and any other offences committed by use of electronic devices. Such as, computers, credit cards, internet, ATM, etc.;

(f) “Director General of Police” means the Police officer appointed as such by the State Government for the overall control, supervision and direction of the police;

(g) “District Superintendent of Police” means the police officer in charge of a Police District;

(h) “Domestic help” means a person working for remuneration or otherwise in a household;

(i) “Group ‘C’ Posts” means the posts so categorized under the relevant State Service Rules;

(j) “Insurgency” includes waging of armed struggle by a group or a section of population against the State with a political objective including the separation of a part from the territory of India;

(k) “Internal Security” means preservation of sovereignty and integrity of the State from disruptive and anti-national forces from within the State;

(l) “Militant activities” include any violent activity of a group using explosives inflammable

substances, firearms or other lethal weapons or hazardous substance in order to achieve its political objectives;

(m) “Non-core police functions” mean such functions which are not core functions as defined;

(n) “Moral Turpitude” means to be a conduct, contrary to justice, honesty, modesty, or good moral and contrary to what man owes to a fellowman or to society in general.

(o) “Place of public amusement and public entertainment” include such places as may be notified by the State Government;

(p) “Outpost” means a police post within the jurisdiction of a Police Station;

(q) “Outsource” means procurement of work from or its entrustment to some other agency or persons, outside the police department;

(r) “Police District” means the territorial area notified under section 5 of the Act, as distinct from a revenue district;

(s) “Police officer” means any member of the Police service of the State;

(t) “Police personnel” shall include police officers and all other persons for whom the appointing authority is the Director General of Police or an officer subordinate to him;

(u) “Police Station” means any area declared to be a Police Station under section 7 of the Act;

(v) “Power of Superintendence” means and includes power of giving directions, guidance and instructions in all administrative matters and includes the power to annul, reverse, rescind or revise any order issued by an authority under the provisions of this Act, subject to the provisions pertaining to investigation as contained in the Criminal Procedure Code, 1973 (Central Act 2 of 1974);

(w) “Prescribed” means prescribed by the rules;

(x) “Public place” means any place to which the public has access;

(y) “Railway Areas” means areas comprised between outermost signals appurtenant to railway tracks including premises of every railway station within the State and shall include trains on tracks, whether moving or stationary, in any area of the State;

(z) “Ranks” shall mean and include subordinate ranks and supervisory ranks;

(za) “Regulations” means regulations made under the Act;

(zb) “Rules” means the rules made under the Act;

(zc) “Special Cell” means a cell created for dealing with a particular category of crime or providing better service to the community including victims of crime;

(zd) “State” means the State of Goa;

(ze) “State Government” means the Government of Goa;

(zf) “Subordinate ranks” means all ranks upto the rank of Inspector of Police;

(zg) “Supervisory ranks” means ranks of Assistant and Deputy Superintendent of Police or above;

(zh) “Tenant”, for the purposes of this Act, means a person to whom a house or premises or part thereof has been let out, whether a lease or any deed has been executed or not;

(zi) “Terrorist activity includes any activity of a person or a group using explosives or inflammable substances or firearms or other lethal weapons or noxious gases or other chemicals or any other substance of a hazardous nature with the aim to strike terror in the society or any section thereof, and with an intent to overawe the Government established by law.

(2) Words and expressions used in this Act but not defined specially shall have the meaning as provided in the General Clauses Act, 1897,(10 of 1897) the Code of Criminal Procedure, 1973 (2 of 1974), and the Indian Penal Code, 1860 (45 of 1860).

## CHAPTER II

### Constitution and Organisation of the Police Service

3. *Constitution of the Police Service for the State.*— (1) There shall be a Police Service for the State.

(2) The Police Service shall consist of such ranks and such number of police officers and have such organisations as the State Government may, by general or special orders, determine and shall include the members of the Indian Police Service, allocated or deputed to the State.

(3) The organisation of the Police Service may include training institutions, research and development bureaus, technical and support services, intelligence and criminal investigation units, and other institutions and units as determined by the State Government from time to time.

(4) The mode of recruitment, pay, allowances and other service conditions of the members of the Police Service shall be such, as may be prescribed.

4. *Police Ranges.*— The State Government, in consultation with Director General of police, may, by notification, divide the entire territory of the State, into one or more Police Range.

5. *Police Districts.*— The State Government, in consultation with the Director General of Police, may by notification declare any area within the State to be a Police District. The administration of the police throughout such district shall vest in the Superintendent of Police who may be assisted by as many Additional, Assistant or Deputy Superintendents, as deemed necessary and are notified by the Director General of Police.

6. *District–Level Special Cells, Sub-Divisions:*—

(1) For the purpose of dealing with a particular category of crime or providing better service to the community at large including victims of crime, the State Government may, in consultation with the Director General of Police and by notification, create one or more Special Cells in each Police District, to be headed by an officer of the rank of Assistant/Deputy Superintendent of Police.

(2) The State Government may by notification, divide each Police District into as many sub divisions as deemed necessary, to be headed by an officer of the rank of Assistant/Deputy Superintendent of Police

(3) The State Government may by notification, divide each police Sub-Divisions into two or more Sub Divisions, each headed by an officer of the rank of Inspector or Deputy Superintendent of Police as the case may be:

Provided that in the event of Sub Division being put under the charge of Deputy Superintendent, such officer shall report directly to the District Superintendent of Police

7. *Police Stations* :— (1) The State Government may, in consultation with the Director General of Police and by notification, create as many Police Stations with as many outposts as necessary, in the police District as deemed necessary, duly keeping in view the population, the area, the crime situation, the workload in terms of law and order and the distance to be traversed by the inhabitants to reach the Police Station.

(2) Two or more Police Stations may be assigned to a police Sub- Division for the purpose of control and supervision.

(3) A Police station shall be headed by a Station House Officer not below the rank of Inspector of Police.

(4) The State Government shall ensure availability of adequate strength of staff at each Police Station, duly based on the population, incidence of crime, law and order related to workload and the geographical area.

(5) The State Government shall provide, as early as possible, each police station with all essential amenities including a reception-cum- -visitors rooms, separate toilets for men and women and separate lock-ups for men and women.

(6) Each Police Station shall have the women and Child protection desk, staffed as far as possible, by women police personnel to record complaints of crimes against women and children and to deal with the task relating to administration of special legislation relating to women and children.

(7) Each Police Station shall prominently display all the relevant information required to be made public, including the Supreme Court guidelines and direction as also departmental order on arrest and details regarding the person arrested and held in lock-ups.

8. *Terms of office of key police functionaries*:—

(1) An officer posted as a Station House Officer in a Police Station or as an Officer Incharge of a Police Sub Division or as the Superintendent of Police of a district shall have a term of minimum of two years.

Provided that any such officer may be removed from his post before the expiry of the minimum tenure of two years consequent upon

- (a) promotion to a higher post; or
- (b) conviction or charges having been framed by a court of law in a criminal offence; or
- (c) punishment of dismissals, removal, discharged or compulsory retirement from service or of reduction to a lower rank awarded under the relevant Discipline and Appeal Rules; or
- (d) suspension from the service in accordance with the provision of the said Rules; or
- (e) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions and duties; or
- (f) the need to fill of a vacancy caused by promotion, transfer, or retirement or;
- (g) an administrative exigency which shall be recorded in writing.

9. *Powers of the District Magistrate in certain cases and Coordination within the District Administration*.— (1) For the purpose of efficiency in general administration of the district it shall be lawful for the **District Magistrate**, in addition to the provision of the Code of Criminal Procedure, 1973 (2 of 1974) and other relevant Acts, to coordinate the functioning of the police with other agencies of district administration in respect of matters relating to the following:—

- (a) the promotion of land reforms and the settlement of the land disputes;
- (b) disturbance of the public peace and tranquility in the district;
- (c) the conduct of election to any public body;
- (d) the handling of natural calamities and rehabilitation of the person affected hereby;
- (e) situation arising out of any external aggression or internal disturbances;
- (f) any similar matter, not within the purview of any one department and affecting the general welfare of the public of the district;
- (g) removal of any persistent public grievance.

(2) For purpose of sub-section (1), the District Magistrate may call for a report regarding the steps taken by the police or other agency to deal with the situation and give such directions in respect of the matter as are considered necessary by him (District Magistrate) to the police and the concerned agency.

10. *Railway Police*.— (1) The State Government may, by notification in the Official Gazette, create one or more special police districts embracing such railway areas in the State as it may specify, and appoint a Superintendent of Police, one or more Assistant and Deputy Superintendent and such other police officers for each such special district as it may deem fit.

(2) Subject to the control of the Director General of Police, such police officers shall discharge police functions connected with the administration of railways situated within their respective charges, and such other functions as the State Government may from time to time assign to them.

(3) Any police officer whom the State Government may by general or special order empower to act under this sub-section, may, subject to any orders which the State Government may make in this behalf, exercise within the special district or any part thereof any of the powers of an officer Incharge of a Police Station in that district. While exercising such powers he shall, subject to any such order as aforesaid, be deemed to be an officer-in-charge of the Police Station discharging the functions of such officer within the limits of his Station.

(4) Subject to any general or special orders which the State Government may make in this behalf, such police officers shall, in the discharge of their functions, be vested within every part of the State, with the powers and privileges and be subject to the liabilities of police officers under this Act or any other law for the time being in force.

(5) The Superintendent of Police may, with the previous permission of the State Government, delegate any of the powers and functions conferred on him by or under this Act, to an Assistant or Deputy Superintendent.

11. *Coastal Security Police*.— (1) The State Government may, by notification in the Official Gazette, create one or more special police districts embracing such coastal areas in the State as it may specify, and appoint a Superintendent of Police, one or more Assistant and Deputy Superintendent and such other police officers for each such special district as it may deem fit.

(2) Subject to the control of the Director General of Police, such police officers shall discharge police functions connected with the administration of coastal areas situated within their respective

charges, and such other functions as the State Government may from time to time assign to them.

(3) Any police officer whom the State Government may by general or special order empower to act under this sub-section, may, subject to any others which the State Government may make in this behalf, exercise within the special district or any part thereof any of the powers of an officer Incharge of a Police Station in that district. While exercising such powers he shall, subject to any such order as aforesaid, be deemed to be an officer-in-charge of the Police Station discharging the functions of such officer within the limits of his Station.

(4) Subject to any general or special orders which the State Government may make in this behalf, such police officers shall, in the discharge of their functions, be vested within every part of the State, with the powers and privileges and be subject to the liabilities of police officers under this Act or any other law for the time being in force.

(5) The Superintendent of Police may, with the previous permission of the State Government, delegate any of the powers and functions conferred on him by or under this Act, to an Assistant or Deputy Superintendent as the case may be.

12. *State Intelligence and Criminal Investigation Departments.*— (1) The State police organisation shall have a State Intelligence Department for collection, collation, analysis and dissemination of intelligence, and a Criminal Investigation Department for investigating inter-state, inter-district crimes and other specified offences, in accordance with the provisions of Chapter V of the Act.

(2) The State Government shall appoint a police officer of the rank of Superintendent of Police to head each of the aforesaid departments.

(3) The Criminal Investigation Department shall have specialised wings to deal with different types of crime requiring focused attention or special expertise for investigation. Each of these wings shall be headed by an officer not below the rank of a Deputy Superintendent of Police.

(4) The State Intelligence Department may have specialised wings, to deal with and coordinate specialised tasks such as measures for counter terrorism, counter militancy etc.

(5) The State Government may appoint by, appropriate number of officers as prescribed from different ranks to serve in the Criminal Investigation Department, and the State Intelligence Department, as deemed appropriate with due regard to the volume and variety of tasks to be handled.

13. *Technical and Support Services.*— (1) The State Government shall create and maintain such ancillary technical agencies and services, under the overall control of the Director General of Police, as considered necessary or expedient for promoting efficiency of the Police Service.

(2) (a) The services so created shall include a full-fledged Forensic Science Laboratory at the State-level, and if required, one or more mobile Forensic Science unit with appropriate equipment and Scientific manpower, in keeping with the guidelines laid down by the Directorate of Forensic Science or the Bureau of Police Research and Development of Government of India.

(b) It shall be the responsibility of the State Government to ensure regular maintenance of all scientific equipment and regular replenishment of consumables in the forensic laboratories.

(c) The State Government shall take all measures to encourage and promote the use of science and technology in all aspects of policing.

(3) The State Government may appoint for the whole state or any part thereof, one or more

Superintendent of Police Telecommunications, and as many Deputy Superintendents of Police as deemed necessary to assist them.

(4) The State Government may similarly appoint for the whole State or any part thereof, one or more Superintendent of Police Transport, and as many Deputy Superintendents of Police as deemed necessary to assist them.

(5) The State Government shall ensure regular maintenance of all the needed equipment and regular replenishment of consumables for the Police Tele-communications and the Police Transport Services.

14. *Appointment of Principals of Police Training School and College.*— (1) The State Government shall establish a full-fledged Police Training School at the State level and if required, a Police Training College for ensuring efficient post induction training of all directly-recruited police personnel in various ranks, pre-promotion training for all those promoted to higher levels and such thematic and specialised in-service training courses for police personnel of different ranks and categories as deemed necessary from time to time.

(2) The State Government may subject to rules made in this behalf appoint any police officer not below the rank of Superintendent of Police as the Principal of Police Training School and an officer not below the rank of Deputy Inspector General of Police to head Police Training College if established.

(3) The State Government shall also provide for appointment of appropriate number of officers as prescribed from the Police Service, in the Police Training School and College, if established, after careful selection having due regard to aptitude, academic qualifications, professional competence, experience and integrity. The State Government shall evolve a scheme of monetary and other incentives to attract and retain the best of the available talent in the Police Service to the faculties of such training institutions.

(4) The State shall also ensure appointment of persons with academic accomplishments in the fields of law, sociology, psychology, criminology, forensic science and other academic subjects relevant to police profession to the permanent faculty positions in these training institutions.

15. *Organization of research.*— The State Government may set up such bodies and take up such other steps as considered necessary or expedient for the purpose of undertaking research into matters relating to the efficiency of the Police Service.

16. *Training-cum-Education Policy for the Police.*— The State Government shall lay down a Training-cum-Education Policy covering all ranks and categories of police personnel. This Policy shall ensure that all police personnel are adequately trained to perform their job taking due care of proper attitudinal development, and shall be linked to career development scheme of police personnel in different ranks and categories.

17. *Career Planning.*— The State Government shall formulate a policy for career progression of police personnel in a manner that will ensure avenues for at least three promotions to meritorious officers in their career, through a transparent process.

18. *Oath or affirmation by police personnel.*— Every member of the Police Service enrolled under this Act shall, on appointment and completion of training, make and subscribe before the Superintendent of Police or Director General of Police, or another officer appointed in that behalf by him, as the case may be, an oath or affirmation, as prescribed.

19. *Certificate of appointment.*— (1) Every police officer of or below the rank of Inspector shall on appointment receive an insignia and a certificate in the form as prescribed. The certificate shall be issued under the hand and seal of such officer as the State Government may by general or

special order direct .

(2) The certificate of appointment shall become null and void and the insignia shall be deemed to be withdrawn whenever the person named there in ceases to belong to the police service or shall remain in operative during the period such person is suspended from the service.

20. *Special Police Officers.*— (1) Subject to rules made in this behalf, the Director General of Police may, by an order in writing, appoint any person to act as a Special Police Officer for a specified area, for a period as specified in the appointment order.

(2) Every special police officer so appointed shall have such powers, privileges and protection, and shall be liable to perform such duties and shall be amenable to such penalties, and be subordinate to such authorities, as may be prescribed.

### CHAPTER III

#### **Control, Supervision and Direction of the Police Force**

21. *Superintendence over the Police Force.*— The powers of Superintendence over the Police Service in respect of all matters shall vest in the State Government.

22. *Director General of Police.*— (1) In accordance with the orders of the Central Government, the State Government shall appoint a Director General of Police for the overall control, supervision and direction of the Police Service. He shall exercise such powers, perform such functions and discharge such duties, and have such responsibilities, as may be prescribed.

(2) Subject to the rules made under All India Services Act, 1951 (Central Act No. 61 of 1951), the Director General of Police so appointed shall have a minimum tenure of two year.

(3) The State Government may appoint one or more Inspector General of Police, Deputy Inspector General of Police and Superintendent of Police to assist the Director General of Police, and determine, in consultation with Director General of Police, the functions, duties, responsibilities and powers of such officers.

23. *Strategic Policing Plan and Annual Policing Plan.*— (1) The State Government shall;

(a) in consultation with the State Police Commission draw up a Strategic Policing Plan for a five-year period (hereinafter referred to as the “Strategic Plan”), duly identifying the objectives of policing sought to be achieved during the period and setting out an action plan for their implementation;

(b) place before the State Legislature, within three months of the coming into force of this Act, the Strategic Plan. Subsequent Strategic Plans shall, thereafter, be laid before the State Legislature every three years.

(c) place before the State Legislature, at the beginning of each financial year, a Progress Report on the implementation of the Strategic Plan as well as an Annual Policing Plan (Annual Plan for short) that prioritises the goals of the Strategic Plan for the year in question.

(2) The Strategic and the Annual Plans shall be prepared after receiving inputs on the policing needs of the districts from the District Superintendents of Police who, in turn, shall formulate the same in consultation with the community.

(3) The Strategic Plan, the Progress Report and the Annual Plan shall be made readily

accessible to the public.

24. *Control, Supervision and Direction of Police Force in a Police Range.*— (1) The State Government shall appoint an officer not below the rank of Deputy Inspector General of the Police to be in-charge of a Police Range.

(2) The power of control, supervision and direction of the Police Service in a Police Range shall, subject to the overall control of the Director General of Police, vest in the officer in-charge of the Police Range.

(3) Subject to the rules made under All India Services Act, 1951 (Central Act No. 61 of 1951), the Officer in-charge of Police Range so appointed shall have a minimum tenure of two years.

(4) Notwithstanding anything in sub-section (3), the officer in-charge of Police Range may be removed from his post before the expiry of the said tenure by the State Government consequent upon:—

(a) his conviction by the court in a criminal offence or where charges have been framed by the court in a case involving corruption or moral turpitude;

(b) his punishment of dismissal, removal, or compulsory retirement from service or of reduction to a lower rank, awarded under the provisions of the All India Services (Discipline and Appeal) Rules, 1969 or any other relevant rules;

(c) his suspension from service in accordance with the provisions of the rules referred to in clause (b);

(d) his incapacity in the discharge of functions due to physical or mental illness;

(e) his own request; or

(f) an administrative exigency which shall be recorded in writing.

25. *Control, Supervision and Direction of Police Force in a Police District.*— (1) The State Government may appoint a District Superintendent of Police for a Police District.

(2) The power of control supervision and direction of the Police Service in a Police District shall, subject to the overall control of the Director General of Police, vest in the District Superintendent of Police.

(3) Subject to the rules made under All India Services Act, 1951 (Central Act No. 61 of 1951), the District Superintendent of Police shall have a minimum tenure of two years.

(4) Notwithstanding anything in sub-section (3), The District Superintendent of Police may be removed from his post before the expiry of the said tenure by the State Government consequent upon:—

(a) his conviction by the court in a criminal offence or where charges have been framed by the court in a case involving corruption or moral turpitude;

(b) his punishment of dismissal, removal, or compulsory retirement from service or of reduction to a lower rank, awarded under the provisions of the All India Services (Discipline and Appeal) Rules, 1969 or any other relevant rules;

(c) his suspension from service in accordance with the provisions of the rules referred to

clause (b);

(d) his incapacity in the discharge of functions due to physical or mental illness;

(e) his own request; or

(f) an administrative exigency which shall be recorded in writing;

(5) The State Government may appoint one or more Additional, Deputy or Assistant Superintendent of Police to assist the District Superintendent of Police.

(6) The powers, functions and duties of police officers appointed under sub-section (5) shall be as may be determined by the Director General of Police by general or special order.

*26. Control. Supervision and Direction of Police Force in a Police Sub Division.— (1) The State Government may appoint an officer not below the rank of Deputy Superintendent of Police to be the In-charge of a Sub Division.*

(2) The power of control, supervision and direction of the Police Service in a Police Sub Division shall, subject to the overall control of the Director General of Police, vest in the Police officer of the Sub-Division.

(3) The in-charge of Police Sub Division shall have a minimum tenure of two years.

(4) Notwithstanding anything in sub-section (3), In-charge of Police Sub Division may be removed from his post before the expiry of the said tenure by the State Government consequent upon:—

(a) his conviction by the court in a criminal offence or where charges have been framed by the court in a case involving corruption or moral turpitude;

(b) his punishment of dismissal, removal, or compulsory retirement from service or of reduction to a lower rank. awarded under the provisions of the relevant laws;

(c) his suspension from service in accordance with the relevant laws;

(d) his incapacity in the discharge of functions due to physical or mental illness;

(e) his own request; or

(f) an administrative exigency which shall be recorded in writing;

*27. Supervision of Police Force in Railway Areas.— (1) The State Government may appoint an officer in the rank of Superintendent of Police to be in-charge of the Railway Areas.*

(2) The power of control, supervision and direction of the Police Force in the Railway Areas shall, subject to the overall control of the Director General of Police, vest in the Superintendent of Police, in-charge of the Railway Areas.

*28. Tenure of office of certain police officers on field duties.— (1) A police officer posted as an Officer-in-charge of a Police Station shall have a minimum tenure of two years.*

(2) Notwithstanding anything in sub-section (1), any officer referred to in that sub-section may be transferred from his post before the expiry of the said tenure, consequent upon:—

(a) his promotion to a higher post;

(b) his superannuation;

(c) his conviction by the court;

(d) charges having been framed against him by the court in a criminal offence;

(e) punishment of dismissal, removal, discharge or compulsory retirement from service or of reduction to a lower rank awarded to him under the rules relating to disciplinary actions taken against him;

(f) his suspension from service in accordance with the provisions of the rules referred to in clause (e);

(g) his incapacity in the discharge of functions and duties due to physical or mental illness;

(h) for filling up a vacancy;

(i) his own request; or

(j) an administrative exigency which shall be recorded in writing.

29. *Regulation of recruitment and condition of services of police officers in subordinate ranks.*— (1) The State Government may make rules for the regulation of recruitment and conditions of service of police officers in subordinate ranks.

(2) Subject to the provisions of Article 311 of the Constitution of India and the Disciplinary Rules framed by the State Government, the Director General of Police or any other police officer authorised by the State Government in this behalf may suspend, dismiss, remove from service, reduce in rank, any police officer of subordinate ranks found to be remiss or negligent in the discharge of his duties or unfit for the same, or guilty of any misconduct.

#### CHAPTER IV

#### **State Police Commission and Police Establishment Board**

30. *State Police Commission.*— (1) The State Government shall establish a State Police Commission (hereinafter referred to as the “Commission”), which shall perform functions assigned to it under the provisions of this Chapter.

(2) Minister-in-charge of the Home Department shall be the Chairman of the Commission and other members of the Commission shall be as follows:—

(a) Leader of the Opposition in the State Legislative Assembly or if there is no Leader of the Opposition, the leader of the largest opposition party (single or group of parties recognized by the Speaker) in the State Legislative Assembly;

(b) Chief Secretary;

(c) Secretary-in-charge of the Home Department;

(d) Director General of Police; and

(e) Three persons of eminence (hereinafter referred to as “Independent Members”) from any walk of public life to be appointed by the State Government:

Provided that atleast one independent member shall be from amongst the weaker sections of society.

(3) The State Government may appoint a police officer not below the rank of Inspector General of Police to act as the Secretary to the Commission.

(4) The Commission shall follow such rules with regard to its meetings, quorum and transaction of business as prescribed.

31. *Committee for selection of Independent Members.*— There shall be a panel of Committee for selection of independent Member. The State Government shall appoint independent Member on the recommendation of a panel consisting of the Chief Minister as its Chairman and the following as its members:

(a) Leader of the Opposition in the State Legislative Assembly or if there is no Leader of the Opposition, the leader of the largest opposition party (single or group of parties recognized by the Speaker) in the State Legislative Assembly;

(b) Minister-in-charge of the Home Department;

(c) Chairman, State Human Rights Commission or in the event of there being no such Commission in the State, the 'Lokaukta'

(d) Chief Secretary

32. *Disqualification for appointment as Independent Member.*— A person shall not be eligible to be appointed as an Independent Member of the Commission, if he-

(a) is not a citizen of India;

(b) has been convicted by the court or against whom charges of an offence involving moral turpitude have been framed by the court;

(c) has been dismissed, removed or compulsorily retired from any public service;

(d) has been declared insolvent by the court; or

(e) is of unsound mind; or

(f) is or has been a Member of Parliament or the Legislature of a State or a local body; or is or has been an office-bearer of any political party or any organisation connected with a political party; or is or has been a member of any political party or any organisation affiliated to a political party.

33. *Term and privileges of Independent Members.*— (1) The term of an independent member shall be for a period of three years from the date of his appointment and he shall not be eligible for reappointment.

(2) An independent member shall serve in an honorary capacity and the privileges and facilities to be extended to such member shall be such as may be prescribed.

34. *Removal of an Independent Member.*— State Government may remove an independent member before the expiry of his tenure, consequent upon—

(a) (i) failure to attend three consecutive meetings of the Commission without sufficient cause;

(ii) incapacitation by reasons of physical or mental infirmity; or

(iii) otherwise becoming unable to discharge his functions as a member.

(b) on the recommendation of the selection committee referred to in Section 31

(c) if he incurs any disqualification specified in Section 32.

35. *Functions of the Commission.*— The Commission may perform the following functions, namely:—

(a) to advise the State Government on policy guidelines for promoting efficient and accountable policing;

(b) to assist the State Government in identifying performance indicators to evaluate the functioning of the Police Service;

(c) to communicate its views periodically on the performance of the Police Service;

(d) to formulate perspective plans for policing and submit them to the State Government;

(e) to analyse crimes in the State and suggest preventive measures;

(f) to draw up a strategic plan for a five year period, duly identifying the objectives of policing sought to be achieved during the period and setting out an action plan for their implementation;

(g) to perform such other functions as specified by the State Government from time to time.

36. *Annual report of the Commission.*— (1) The Commission shall, at the end of each financial year, present to the State Government a report of its work during the preceding year as well as of the performance of the Police Service.

(2) The State Government shall cause the annual report to be laid before the House of the State Legislature in the Budget Session.

37. *Police Establishment Board.*— (1) The State Government shall constitute a Police Establishment Board (hereinafter referred to as the “Board”), with the Director General of Police as its Chairman and officer of the rank Superintendent of Police and above as its members.

(2) The Board shall perform the following functions:—

(a) recruitment of Constables in accordance with the relevant service rules;

(b) promotion in the subordinate ranks (Head Constables to Inspector of Police) in accordance with relevant service rules;

(c) specify guidelines for transfer of subordinate ranks with the approval of State Government;

(d) prepare proposal for transfer of police officers in the rank of Deputy Superintendent of Police and above and submit the same to the State Government; and

(e) analyze the grievances of police personnel and suggest remedial measures to the State Government.

(3) For recruitment of constables and for promotion in the subordinate ranks (Head Constables to Inspector of Police), the Board may appoint one or more Committees headed by an officer not below the rank of Inspector General of Police.

(4) The Police Establishment Board shall follow such procedure with regard to its meetings, quorum and transaction of business as prescribed by the State Government.

(5) The transfer of lower subordinates (Constables & Head Constables) within in the unit shall be decided by the concerned Superintendents of Police subject to approval of DIG and/or IG.

(6) The transfer of upper subordinates (ASIs & PSIs) shall be decided by DIG and/or IGP.

(7) Transfer of Police Inspectors shall be decided by the Director General of Police.

(8) The transfer of Dy. Superintendent of Police and above shall be considered by the State Government in consultation with Director General of Police.

## CHAPTER V

### Functions, Duties and Responsibilities of Police Officers

38. *Functions, Duties and responsibilities of police officers.*— (1) The functions, duties and responsibilities of a police officer shall be as follows:—

(a) to uphold and enforce the law impartially and to protect life, liberty, property, rights, dignity and human rights of the people;

(b) to prevent crime and public nuisance;

(c) to maintain public order;

(d) to preserve internal security, prevent and control terrorist activities, and to prevent breach of public peace;

(e) to protect public property;

(f) to detect offences and bring the offenders to justice;

(g) to apprehend persons whom he is legally authorised to apprehend and for whose apprehension sufficient grounds exist;

(h) to help people in situations arising out of natural or man-made disasters, and to assist other agencies in relief measures;

(i) to facilitate orderly movement of people and vehicles, and to control and regulate traffic;

(j) to gather intelligence relating to matters affecting public peace and crime;

(k) to provide security to public authorities in discharging their functions and duties; and

(l) to perform such duties and discharge such responsibilities as may be enjoined upon him by law or by an authority empowered to issue such directions under any law.

(2) The State Government, or an authority specially empowered in this behalf by the State Government, may assign such other duties and responsibilities to police officers as may be specified by the State Government.

39. *Social responsibilities of the police officers.*— Every police officer shall:

(a) behave with the members of the public with due courtesy and decorum, particularly so in dealing with senior citizens, women, children and members of weaker sections of society;

(b) guide and assist members of the public, particularly senior citizens, women, children, and the physically or mentally challenged individuals, who are found in helpless condition on the streets or other public places;

(c) provide requisite assistance to victims of crime and of road accidents;

(d) prevent harassment of senior citizens, women and children in public places and public transport including stalking, making objectionable gestures, signs, remarks or harassment

caused in any way;

(e) render lawful assistance to the members of the public, particularly women, children, and members of weaker section of society.

*Explanation.*— “senior citizen” means a person of and above the age of sixty years.

40. *Powers and Responsibilities of the Director General of Police.*— Subject to the approval of the State Government, the Director General of Police shall make rules, regulations or issue orders, not inconsistent with this Act or with any other enactment for the time being in force for:

(a) prevention and investigation of crime;

(b) maintenance of law and order;

(c) regulation and inspection of the police organisation, and of the work performed by police officers;

(d) determining the description and quantity of arms, accoutrements, clothing and other wherewithal to be provided to the Police Service;

(e) prescribing the places of residence of members of the Police Service;

(f) institution, management and regulation of any non-government fund for purposes connected with the police administration or welfare of police personnel;

(g) regulation, deployment, movements and location of the police;

(h) assigning duties to officers of all ranks and grades, and prescribing the manner and the conditions subject to which, they shall exercise and perform their respective powers and duties;

(i) regulating the collection and communication of intelligence and information by the police;

(j) specifying the records, registers and forms to be maintain and the returns to be submitted by different police units and officers; and

(k) generally, for the purpose of rendering the police more efficient and preventing abuse of power and neglect of duties by them.

41. *Duties in emergency situation.*— (1) The State Government may, by notification in the official gazette, declare any specified service to be an essential service to the community, for a specified period, which may be extended from time to time, by a notification, as necessary.

(2) Upon a declaration being made under sub-section (1) and so long it remains in force, it shall be the duty of every police officer to obey any order given by any officer superior to him in connection with the service specified in the declaration.

42. *Senior police officer performing duties of a subordinate police officer.*— A senior police officer may perform any duty assigned by law or by a lawful order to any officer subordinate to him. and in case of any duty imposed on such subordinate, a superior officer may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding any infringement thereof.

43. *Police officer always on duty.*— Every police officer shall be considered to be always on duty for all purposes of this Act.

44. *Police officers may be deployed in any part of the State.*— Notwithstanding anything contained in any other law or any of the provisions of this Act, members of the Police Service shall be liable for posting anywhere in the State and outside the State, as may be ordered by the Director General of Police or any other officer authorized by the State Government.

45. *Police officers not to engage in other employment.*— No police officer shall engage in an employment or office whatsoever, other than his duties under this Act, unless expressly permitted to do so in writing by the State Government,

46. *Police officers not to withdraw from duty.*— No police officer shall be at liberty to withdraw himself from duties of his office unless expressly allowed to do so by an officer authorised to grant such permission.

47. *Police officers to take charge of unclaimed property.*— (1) It shall be the duty of every police officer to take charge of unclaimed property, and to furnish an inventory thereof to the Police Station having jurisdiction.

(2) The manner of disposal of such property shall be such as may be prescribed.

**Explanation:**— For the purposes of this section, “property” shall mean any movable property, money or valuable security.

48. *Police Stations diary.*— It shall be the duty of every officer in-charge of a police station or an outpost to keep a general diary in such form and manner as may be prescribed.

49. *State Government may prescribe form of returns.*— (1) The State Government may prescribe the forms and the manner of returns to be submitted to it by the Director General of Police.

(2) The Director General of Police may specify the forms and manner of returns to be furnished to him by other police officers.

50. *Uniforms, insignia, accoutrements, etc.*— (1) The State Government may prescribe uniform, insignia and accoutrements for police officers or as the case may be, a class of police officers.

(2) The Director General of Police may, from time to time, issue directions for wearing of uniforms and carrying of insignia and accoutrements.

## CHAPTER VI

### **Policing in the Context of Public Order and Internal Security Challenges**

51. *Internal Security Schemes.*— (1) The Director General shall, with the approval of the State Government, draw up an Internal Security Scheme for the entire State as well as for each of the districts to deal with problems of Public Order and Security of State as a whole or for any area or areas.

(2) The Internal Security Scheme shall be updated regularly by incorporating therein, the latest comprehensive standard operating procedures for the action, to be taken by the police either independently or in co-ordination with other agencies in the period, before, during and after the occurrence of problems of each kind.

52. *Creation of Security Zones and Operating Procedures.*— (1) As and when, the security of the State in any area is threatened by insurgency or any terrorist or militant activity whether by any organized crime group or otherwise, the State Government may, by notification in the Official Gazette, declare such an area as a special Security Zone:

Provided that such notification shall be placed before the State Legislature, within a period of six months from the date of issue or the first sitting of the Legislature, whichever is earlier.

(2) For a Special Security Zone, as declared under sub-section(1), the State Government may, create an appropriate Police structure providing for such zone, a suitable command, control and response system.

(3) The Director General of Police shall with the concurrence of the State Government, issue orders, laying down standard operating procedures, to be followed by the police in a Special Security Zone.

(4) The State Government may, on the recommendation of the Director General of Police, and for reasons, to be recorded in writing, ban or regulate the production, sale, storage, possession or entry of any devices, or equipment, or any explosive, poisonous, chemical biological or radioactive articles or substances, or any inflow of funds, in a Special Security Zone, if the use of such devices, equipment, material article or inflow of funds, is reasonable considered a threat to internal security or public order in the area, in any manner.

53. *Measures to be taken.*— The measures to be taken to prevent and control the activities of persons or organizations having impact on internal security or public order in any special Security Zone shall be such as may be prescribed.

## CHAPTER VII

### Special Provisions for Policing

54. *Separation of Crime Investigation and Law and Order.*— (1) The State Government may, by general or special order, create in each such Police Station, as it may decide from time to time, a separate Crime Investigation Unit, headed by an officer not below the rank of Sub-Inspector of Police, under the overall supervision and control of the officer in charge of the Police Station

(2) The State Government may, by general or special order, create in office of the Director General of Police or in any police district, one or more Special Crime Investigation Units headed by an officer not below the rank of Inspector of Police, for investigation of cyber crimes, organised crimes and such other offences as may be specified by the Director General of Police by general or special order.

(3) The police officers posted to such units shall not be assigned to any other duty, except under very special circumstances with the permission of the Director General of Police.

55. *Power to reserve public places and raise barriers.*— Subject to such checks and restrictions as may be specified by the District Magistrate.

(a) The District Superintendent of Police may temporarily reserve, by public notice, any street or other public place for any public purpose, and regulate the movement of persons and vehicles in the area so reserved; and

(b) The District Superintendent of Police may, in the interest of general public, authorise any police officer to raise barriers and other necessary structures on public roads and streets for

maintenance of public order or to check vehicles or occupants thereof for prevention or detection of any crime.

56. *Preservation of order.*— (1) Subject to such checks and restrictions as may be specified by the District Magistrate, the District Superintendent of Police or any police officer authorised by him for this purpose, may issue general or special orders for regulating all assemblies and processions on public roads, or in public streets or thoroughfares and prescribe the routes by which, and the times at which, such processions may pass:

Provided that where the District Superintendent of Police or the officer authorized by him is satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, if uncontrolled, be likely to cause a breach of the peace, he may direct such persons or class of persons to seek permission from the District Magistrate or any officer authorised by him for this purpose.

(2) The District Magistrate or the officer authorised by him, may grant the requisite permission with such conditions as he may deem appropriate:

Provided that he may refuse to grant permission to convene or collect an assembly in any such road, street or thoroughfare, or form a procession which would, in his opinion, be likely to cause a breach of the peace.

(3) Any police officer on whom the responsibility to regulate a public assembly or a procession is enjoined upon, may stop any procession which does not possess the permission referred to in subsection (2) or which, in his opinion/ violates the conditions of the permission , and may order any such procession or any such assembly to disperse.

(4) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section, shall be deemed to be an unlawful assembly.

(5) The District Superintendent of Police may, in the interest of general public, issue orders for regulating the entry or exit or hours of operation of a public place.

57. *Power to seek information.*— The District Superintendent of Police may, by an order, require every owner of a household, a shop, or hotel or a guest house, a public premise, to furnish details of a tenant or occupant tourist or domestic help in the format specified by him for this purpose or such other information as may be prescribed.

58. *Payment for police service.*— The State Government may levy from any person, who carries on any such occupation, gathering, exhibition, sale, entertainment, etc., for monetary gain, as may, for the purpose of public security or for the maintenance of public peace or order, require deployment of additional police force, such user charges as may be prescribed.

59. *Regulation of Traffic.*— The District Superintendent of Police or any officer specially authorized by the State Government for management of traffic in any area may, from time to time, issue directions for regulating the use of public roads and streets in respect of motorists, cyclists, pedestrians and persons accompanying animals, and for regulating the parking of vehicles including bicycles, with a view to ensure smooth and orderly movement of traffic.

60. *Community Liaison Group.*— (1) The District Superintendent of Police shall constitute, in the manner prescribed, one or more Community Liaison Group consisting of representatives of the community for each Police Station, to aid and assist the Police Service in the discharge of its functions;

(2) Community liaison group shall perform functions and have responsibilities as may be

prescribed.

## CHAPTER VIII

### Welfare and Grievance Redressal

61. *Welfare of Police Personnel.*— The State Government may, by general or special order, specify such measures as deemed appropriate, for the welfare of police personnel.

62. *Funds for the welfare of police personnel.*— (1) The State Government may, by notification, constitute funds for the purpose of welfare of police personnel and their dependents.

(2) The funds shall be utilized, administered and audited in such manner as may be prescribed.

(3) The following sums shall be credited to the funds, namely;—

(a) any grant made by the State Government;

(b) contributions made in the fund by police personnel;

(c) any other grant, donation, bequest made for the purposes of the funds.

63. *Police Welfare Board.*— (1) The State Government may, by notification, set up a Police Welfare Board for implementing welfare measures for police personnel.

(2) Composition, functions and responsibilities of the Police Welfare Board shall be such as may be prescribed.

64. *Grievance redressal of police personnel.*— (1) The State Government shall prescribe the mechanism and the procedure for the redressal of the grievances of police officers.

(2) Such mechanism shall ensure a set-up for grievance redressal at the Police District/Unit, Police Range/Unit and Director General of Police level and shall ensure that every police officer has the right of at least one appeal, if he is not satisfied with the disposal of his grievance.

## CHAPTER IX

### General Offences and Penalties

65. *Regulation of public assemblies and processions.*— (1) The District Superintendent of Police or an officer not below the rank of Assistant/Deputy Superintendent of Police may, where necessary, direct the conduct of all assemblies and processions on any public road, street or thoroughfare, and prescribe the routes by which and the time at which such a procession may pass.

(2) It shall be duty of any person intending to organize a procession on any road, street or thoroughfare, or to convene an assembly at any public place, to give intimation in writing to the officer in charge of the concerned Police Station.

(3) The District Superintendent or any officer not below the rank of Assistant/Deputy Superintendent of Police, on receipt of such intimation or otherwise, and upon being satisfied that such an assembly or procession, if allowed without due control and regulation, is likely to cause a breach of peace, may prescribe necessary conditions including making provisions for satisfactory regulatory arrangements, on which alone such assembly or procession may take place. Under special circumstances to be recorded in writing, the concerned officer may also prohibit the assembly or procession in public interest. All orders and directions should be given within 48 hours of receipt of intimation, as far as possible.

66. *Assemblies and processions violating prescribed conditions.*— (1) The District Superintendent of Police or any Police Officer not below the rank of Sub-Inspector, authorized in this behalf by the District Superintendent of Police, may stop any assembly or procession which violates the conditions set under sub-sections (1) and (3) of Section 65, and order such assembly or procession to disperse.

(2) Any assembly or procession which neglects or refuses to obey any order given under sub-section (1) above shall be deemed to be an “unlawful assembly” under Chapter VIII of the Indian Penal Code, 1860 (45 of 1860).

67. *Regulation of the use of music and other sound systems in public places.*— The District Superintendent or any officer not below the rank of Assistant/Deputy Superintendent of Police may regulate the time and the volume at which music and other sound systems are used in connection with any performances and other activities in or near streets or any public place that cause annoyance to the residents of the neighbourhood.

68. *Directions to keep order on public roads.*— (1) The District Superintendent of Police or any other Police Officer authorized by him in this behalf, through a general or special order, may give reasonable directions to the public to keep order on public roads and streets, thoroughfares, or any public place, in order to prevent obstruction, injury, or annoyance to passers by or pollution.

(2) The District Superintendent of Police may issue general directions under Sub-Section (1), in respect of the whole district or any part thereof, as per procedure laid down in section 78.

69. *Penalty for disobeying orders or directions.*— Any person not obeying the lawful orders issued under Sections 65, 66 and 68 may be arrested and on conviction by a court of law, shall be liable to a fine which may extend upto rupees ten thousand.

70. *Power to reserve public places and erect barriers.*— (1) The District Superintendent of Police may, by public notice, temporarily reserve for any public purpose any street or other public place, and prohibit the public from entering the area so reserved, except on such conditions as may be specified.

(2)(a) The District Superintendent of Police may authorize any police officer to erect barriers and other necessary structures on public roads and streets, to check vehicles or occupants thereof for any legal provisions by them.

(b) In making such order, the District Superintendent of Police shall prescribe the necessary steps for ensuring the safety of passers-by.

(c) These temporary structures shall be removed once the purpose for which they were installed is over.

71. *Saving of control of Magistrate of the District.*— Notwithstanding anything contained in this chapter, nothing shall be deemed to have interfered with the general control of the magistrates of the District on the matters assigned to them under any law for the time being in force.

### **Offences against the police**

72. *Obstruction in police work.*— Any person, who obstructs the discharge of duties and functions of a police officer, shall, on conviction, be liable to simple imprisonment not exceeding three months or fine which may extend upto rupees ten thousand or both.

73. *Unauthorized use of police uniform.*— Whoever, not being a police personnel, wears a police uniform or any dress having the appearance or bearing any of the distinctive marks of that uniform without authorization from the State Government or as the case may be, from an officer authorized by the State Government, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

74. *Refusal to deliver up certificate etc. on ceasing to be police officers.*— Whoever, having ceased to be a police officer, does not forthwith deliver up his/her certificate of appointment, clothing, accoutrements and other wherewithal supplied to him for the execution of his duty, shall on conviction by a court of law, be liable to a fine which may extend upto rupees ten thousand and incase of continuing offence, shall be punished with imprisonment not exceeding three months.

75. *False or misleading statement made to the police.*— Whoever makes a false statement or a statement which is misleading in material particulars to a police officer for the purpose of obtaining any benefit shall, be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

76. *Offences by the police.*— Whoever, being a Police Officer:—

(a) intentionally abdicated duties or withdraws from duties; or

(b) uses criminal force against another police officer, or indulges in gross insubordination;

(c) engages himself or participates in any demonstration, procession or strike, or resorts to, or in any way abets any form of strike, or uses physical force to compel any authority to concede anything; or

(d) is guilty of sexual harassment in the course of duty, whether towards other police officers or any member of the public.

Shall on conviction by court, be punished with imprisonment for a term, which may extend to one year or with a fine, not exceeding ten thousand rupees or with both.

### **Offences by public on roads**

77. *Punishment for certain offences pertaining to public nuisances.*— (1) Any person who, on any road or in any open place or street or thoroughfare within the limits of any town to which this section shall be specially extended by the State Government commits any injury, danger, indecent exposure of his person, obstruction, inconvenience, annoyance to persons, risk, danger or damage of the residents or passengers, shall be punished with fine which may extend to two hundred rupees.

(2) Where any act or omission constitute the following offences under this Act and also under any other Act, then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

(i) *Slaughtering cattle.*— Any person who slaughters cattle shall be punishable on conviction with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

(ii) *Cruelty to animals.*— Any person who wantonly or cruelly beats, abuses or tortures any animal, shall be punishable in case of first offence with fine which shall not be less than ten rupees but extend to fifty rupees and incase of subsequent offences committed within three years of the previous offence, with fine which shall be not less than twenty five rupees but

which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

(iii) Throwing dirt into street— Any person who throws or lays down any dirt, filth, rubbish or who causes any offensive matter to run from any house, factory, dung heap or the like; or put up on any street, open space, shall be punished with fine which may extend to five thousand rupees.

(iv) Being found drunk or riotous— Any person who is found drunk or riotous or who is incapable of taking care of himself shall be punished with simple imprisonment for a term which may extend to twenty four hours, or with fine which may extend to ten rupees or with both;

### **Procedural matters**

78. *Procedure for posting directions and public notices.*— (1) All general directions, regulations, and public notices issued under this Chapter shall be published by posting notices in the office of the District Magistrate, Mamlatdar office, Municipal office, Police station and Panchayat office of the local area as well as in the locality affected, by affixing copies in conspicuous places near the building or place to which the notice specially relates, or by announcing it by the beating of drum or by advertising in local newspapers and other media, or by any other means as the Superintendent of Police may deem fit:

Provided that the Superintendent of Police may, on being satisfied that it is in public interest to bring any regulation into force with immediate effect, make such direction or regulation without previous publication.

(2) If any direction or regulation made under this section relates to any matter with respect to which there is a provision in any law, rule or bylaw of the Corporation or of any other Municipal or Local Authority in relation to public health, convenience or safety of the locality, such regulation shall be subject to such law, rules, or bylaws.

79. *Method of proving orders and notifications.*— Any order or notification published or issued by the State Government or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by such Magistrate, or officer, and certified by him to be a true copy of an original published or issued according to the provisions of the section of the Act applicable thereto.

80. *Validity of rules and order.*— No rule, regulation, order, direction, or notification made or published and no adjudication, inquiry or act done under any provision of this Act, or under any rules made thereunder, which is in substantial conformity with the same, shall be deemed illegal, void or invalid by reason of any defect in form.

81. *Officers holding charge of or succeeding to vacancies competent to exercise powers.*— Whenever in consequence of the office of a Magistrate or police officer becoming vacant, any officer holds charge of the post of such Magistrate, or police officer or succeeds, either temporarily or permanently, to his office, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Act on such Magistrate or police office, as the case may be.

82. *Written permissions to specify conditions, and to be signed.*— (1) Any written permission granted under the provisions of this Act shall specify the period and locality for which and the conditions and restrictions subject to which, the same is granted, and shall be given under the

signature of the competent authority and such fee then be charged there for as is prescribed by any rule under this Act in that behalf.

(2) Any written permission granted under this Act may at any time be suspended or revoked by the competent authority, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such permission relates.

(3) When any such written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall for all purposes of this Act, be deemed to be without a written permission until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be.

(4) Every person to whom any such written permission has been granted, shall, while the same remains in force, at all reasonable times, produce the same, if so demanded by a police officer.

*Explanation:—* For the purpose of this section, any such infringement or evasion by, or conviction of a servant or other agent acting on behalf of the person to whom the written permission has been granted, shall be deemed to be infringement or evasion by, or as the case may be, conviction of the person to whom such written permission has been granted.

83. *Public notices how to be given.*— Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of a competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising the same in such local newspapers – English or regional language or Hindi – as the said authority may deem fit, or by any two or more of these means and by any other means it may think suitable:

Provided that the competent authority may, on being satisfied that it is in public interest to bring any regulation into force with immediate effect, make such direction or regulation without previous publication.

84. *Consent of a competent authority may be proved by writing under his signature.*— Whenever under this Act, the doing or the omitting to do or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of a competent authority, a written document signed by a competent authority purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.

85. *Signature on notices may be stamped.*— Every written permission, notice, or other document, not being a summons or warrant or search warrant, required by this Act, or by any rules thereof, to bear the signature of the competent authority, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

86. *Prosecution of police officers.*— No court shall take cognizance of any offence under this Act when the accused person is a police officer except on a report in writing of the facts constituting such offence by, or with the previous sanction of an officer authorized by the State Government in this behalf.

87. *Prosecution for offences under other laws.*— Subject to the provisions contained in section 300 of the Code of Criminal Procedure, 1973 (2 of 1974) nothing in this Act shall be construed as preventing any person from being prosecuted and punished under any other law for anything made punishable by this Act.

88. *Summary disposal of certain cases.*— (1) A court taking cognizance of an offence

punishable under sections 69 and 77 may state, upon the summons to be served to the accused person, that he may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter, and remit to the court such sum as the court may specify.

(2) Where an accused person pleads guilty and remits the sum specified in the summons under sub-section (1), no further proceedings in respect of the offence shall be taken against that person.

89. *Recovery of penalties and fines imposed by Judicial Magistrates.*— The provisions of sections 64 to 70 of the Indian Penal Code, 1860 (45 of 1860) and sections 386 to 389 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to penalties and fines imposed under this Act, on conviction before the Court:

Provided that notwithstanding anything contained in Section 65 of the Indian Penal Code, 1860 (48 of 1860) any person sentenced to fine under sections 69 of this Act may be imprisoned in default of payment of such fine, for any period not exceeding eight days.

90. *Protection of action taken in good faith.*— No suit or other legal proceeding shall lie against the State Government, the State Police Commission or its members and staff, the Police Accountability Authority, its members, staff or Police Establishment Board or any person acting under the direction of the Commission or the Authority, in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

#### CHAPTER X

### Police Accountability

91. *Police accountability Authority.*— The State Government may as soon as may be establish a State Police Accountability Authority (hereinafter referred to as “Authority”), comprising the Lokayukta, Goa, for the whole of the State:

Provided that if by the time of the coming into operation of this Act, the institution of the Lokayukta is not in position, the composition of the Authority, till such time the Lokayukta is appointed, may be such as may be notified by the State Government.

92. *The functions of the Authority.*— The functions of the Authority shall be as follows:

(1) The Authority shall forward for further action the complaints of misconduct received directly by it to the Director General of Police.

(2) The Authority shall enquire into allegations of “serious misconduct”, against police personnel in all ranks, either suo moto or on a complaint received from a victim or any person on his behalf.

*Explanation:* “serious misconduct” for the purpose of this Section shall mean:— (I) any mala fide act or omission or commission by a police officer that leads to or amounts to:

(i) death in police custody; or

(ii) grievous hurt in police custody, as defined in section 320 of Indian penal Code, 1860 (45 of 1860); or

- (iii) rape or attempt to commit rape in police custody; or
- (iv) land/house grabbing by police personnel;
- (v) extortion by police personnel;
- (vi) any other offence for which the maximum punishment prescribed in law is ten years or more;

(3) The Authority may also inquire into any other case referred to it by the Director General of Police or the State Government if, in the opinion of the Authority, the nature of the case merits an Independent Inquiry.

(4) The Authority may also perform such other functions as may be prescribed.

93. *Powers of the Authority.*— In the cases directly inquired by it, the Authority shall have the same powers as are vested in Civil Court under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908) when trying a suit, in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents;
- (c) issuing commission for examination of witnesses; and
- (d) any other matter as may be prescribed.

94. *Reports of the Authority.*— (1) The Authority shall prepare an annual report at the end of each financial year, inter alia containing;

- (a) the number and type of cases of ‘serious misconduct’ inquired into by it;
- (b) the number and type of cases of misconduct referred by it to the Director General of Police;
- (c) the number and type of cases including those referred to in (b) above in which advice or recommendation was made by it to the police for further action;
- (d) the identifiable pattern of misconduct on the part of police personnel in the State;
- (e) recommendations on measures to enhance police accountability.

(2) The annual report of the Authority shall be laid before the State Legislature. The report shall be a public document, made accessible to the public

95. *Decisions and Recommendations of the Authority.*— (1) In the cases directly inquired by the Authority, it may, upon completion of the inquiry, communicate its findings to the Director General of Police and the State Government with a recommendation to:—

- (a) register a First Information Report; and/or
- (b) initiate departmental action based on such findings,

duly forwarding the evidence collected by it to the Director General of Police/State Government. Such recommendations of the Authority shall be binding, unless the State Government for reasons to be recorded in writing disagreed with such recommendations:

Provided that the Authority, before finalizing its own opinion in all such cases shall give the Director General of Police an opportunity to present the department’s view and additional facts, if any, not already in the notice of the Authority:

Provided further that, in such cases, the Authority may review its findings upon receipt of additional information from the Director General of Police that may have a material bearing on the case.

(2) The Authority may also recommend to the State Government payment of monetary compensation by the Government to the victims of the subject matter of such as inquiry.

96. *Rights of the Complainant.*— (1) The complainant may lodge his complaint relating to any “serious misconduct” on the part of police personnel with either the departmental police authorities or with the Authority:

Provided that no complaint shall be entertained by the Authority if the subject matter of the complaint is being examined by any other commission, or any court.

(2) In cases where a complainant has lodged a complaint with the police authorities, he may inform the Authority at any stage of the departmental inquiry about any undue delay in the processing of the inquiry.

(3) The complainant shall have a right to be informed of the progress of the inquiry from time to time by the inquiring authority (the concerned police authority or Accountability Authority). Upon completion of inquiry or departmental proceedings, the complainant shall be informed of the conclusions of the same as well as the final action in the case at the earliest.

(4) The complainant may attend all hearings in an inquiry concerning his case. The complainant shall be informed of the date and place of each hearing.

(5) All hearings shall be conducted in a language intelligible to the complainant. In a case where hearings cannot be conducted in such a language, the services of an interpreter shall be requisitioned if the complainant so desires.

(6) Where upon the completion of the departmental inquiry, the complainant is dissatisfied with the outcome of the inquiry on the grounds that the said inquiry violated the principles of natural justice, he may approach the Authority for appropriate directions.

97. *Funding.*— The State Government shall ensure that adequate funds are provided to the Authority for the effective performance of its functions by way of separate component in appropriate major head of the State Budget as the Government may decide.

## CHAPTER XI

### Miscellaneous

98. *Persons aggrieved may apply to State Government to annul, reverse or alter any order.*— In the case of any order made by the State Government under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any aggrieved person to make a representation to the State Government to annul, reverse, or alter the aforesaid order.

99. *Power to make Rules.*— (1) The State Government may make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session for a total period of fourteen days which

may be comprised in one session or in two successive sessions, and if before the expiry of the session in which they are so laid, or of the session immediately following, the House of the State Legislature makes any modifications in any of such rules, or resolves that any such rule should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

(3) Every rule made under this Act shall be published by the State Government in the Official Gazette.

100. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification in the Official Gazette, make such provisions, not inconsistent with this Act, as it deems necessary or expedient for removing the difficulty:

Provided that no order under this section shall be made after expiry of three years from the date of the commencement of this Act.

(2) Every notification issued under this section shall, as soon as may be after it is issued, be laid before the House of State Legislature.

101. *Repeal and Saving.*— (1) Save as otherwise provided in this Act, The Indian Police Act, 1861, the Police Act, 1888, (Central Act No. 5 of 1861) and the Madras District Police Act, 1859, in its application to the State of Goa are hereby repealed.

(2) Notwithstanding such repeal, anything done or action taken or purported to have been done or taken (including any rule, notification, inspection order or notice, direction, delegation made or issued, or any appointment, confirmation or declaration made or any licence, permission, authorization granted or any document or instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force unless and until superseded by anything done or any action taken under this Act.

### **Statement of Objects and Reasons**

1. In this State the Police Force have been functioning under the Police Act, 1861, the Police Act, 1888., and the Madras District Police Act, 1859 which have been extended to the State when we were a Union Territory.

2. In the absence of a comprehensive Legislation on the subject and with ever increasing pressure on the Police to take immediate action to prevent disturbance of the public peace and tranquility, a need has been felt to enact a Legislation to arm the Police Force with legal provisions to enable them to handle all situations which may lead to disturbance of public peace or tranquility and also enable the Police to take action in cases of public nuisance or acts causing annoyance to public.

3. There are many petty offences for which summary action is required to be taken by the Police. In the absence of a comprehensive Legislation with enabling provisions the Police Force will not be able to act in such cases.

4. The bill seeks to achieve the purpose.

## **Financial Memorandum**

No financial implications are involved in the present Bill.

### **Memorandum Regarding Delegated Legislation**

Clauses 3, 18,19, 20, 22, 29,30, 33, 37, 40, 47, 48, 49, 50, 53, 57, 58, 60, 62, 64, 63, 92, 93,99 enable framing of Rules for the purposes of the Act. Thus delegated are of normal character.

Porvorim-Goa,  
Dated:- 25/8/2008.

(Shri RAVI S. NAIK)  
Home Minister

Assembly Hall,  
Porvorim-Goa,  
Dated:- 25/8/2008.

(R. KOTHANDARAMAN)  
Secretary to the Legislative  
Assembly of Goa.