



POLICE BILL 2013

(NO. 3 OF 2013)



POLICE BILL 2013

(NO. 3 OF 2013)

A

BILL

Entitled

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

ENACTED by the National Parliament of Solomon Islands.

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

1. SHORT TITLE AND COMMENCEMENT
2. INTERPRETATION

PART 2

GOVERNANCE AND ADMINISTRATION

3. NAME OF POLICE FORCE
4. STATEMENT OF PRINCIPLES
5. CODE OF CONDUCT
6. INDEPENDENCE OF THE POLICE
7. FUNCTIONS OF THE POLICE
8. CONSTITUTION OF THE POLICE FORCE
9. EMERGENCY MILITARY FORCE
10. COMMISSIONER OF POLICE
11. COMMISSIONER'S RESPONSIBILITIES
12. INDEPENDENCE OF THE COMMISSIONER
13. COMMISSIONER'S ORDERS
14. COMMISSIONER'S POWER TO DELEGATE
15. DELEGATION TO PROVINCIAL COMMANDERS
16. RESPONSIBILITIES OF THE MINISTER
17. RANKS
18. COMMISSIONER'S REPORTS

PART 3

EMPLOYMENT

19. APPOINTMENTS
20. PROSPECTIVE EMPLOYEES TO PROVIDE INFORMATION
21. MERIT APPOINTMENTS
22. QUALIFICATIONS FOR APPOINTMENT
23. OBLIGATION TO NOTIFY VACANCIES
24. APPLICATIONS FROM OUTSIDE THE POLICE FORCE
25. APPOINTMENTS FROM OUTSIDE THE POLICE FORCE
26. OBLIGATION TO NOTIFY APPOINTMENTS
27. APPOINTMENT OF AUTHORISED OFFICERS
28. RESIGNATION OF AUTHORISED OFFICERS
29. ATTACHMENT TO A PUBLIC OFFICE
30. ENLISTMENT AND PROBATION
31. ENLISTMENT REQUIREMENTS

32. DECLARATION ON OATH
33. EVIDENCE OF APPOINTMENT
34. UNIFORMS AND EQUIPMENT
35. PLACE OF SERVICE
36. PROMOTIONS BELOW INSPECTOR RANK
37. PROMOTIONS ABOVE INSPECTOR RANK
38. POLICE PROMOTION BOARDS
39. SPECIAL ALLOWANCES
40. ABSENCE DUE TO ILLNESS
41. LEAVE OR ABSENCE FROM DUTY
42. RESIGNATION
43. TRANSFER OR RETIREMENT DUE TO INCAPACITY
44. RETAINING OFFICERS DUE TO EMERGENCY
45. TERMINATION
46. RETIREMENT
47. DISCHARGE OF RECRUITS AND PROBATIONARY CONSTABLES
48. DELIVERY OF ARMS AND EQUIPMENT

PART 4

POWERS AND DUTIES

49. GENERAL POWERS AND DUTIES
50. PRESERVATION OF COMMON LAW POWERS
51. DEALING WITH BREACHES OF THE PEACE
52. PREVENTING OFFENCES GENERALLY
53. PREVENTION OF OFFENCES RELATING TO LIQUOR
54. PREVENTING RIOTS
55. DISPERSING PROCESSION OR ASSEMBLY
56. ARREST FOR BREACHING PROCESSIONS AND PUBLIC ASSEMBLIES ACT
57. ENTRY TO PREMISES TO PREVENT VIOLENCE
58. ENTRY FOR INVESTIGATING DEATH OR INJURY
59. ENTRY FOR INVESTIGATING UNNATURAL DEATHS
60. OBTAINING INFORMATION INTO THE CAUSE OF UNNATURAL DEATHS
61. SERVICE OF COURT PROCESS
62. ENTRY TO PROPERTY FOR SERVING COURT PROCESS
63. ENTRY FOR THE PURPOSE OF INVESTIGATION
64. ENTRY TO EFFECT ARREST
65. ENTRY TO DWELLING TO EFFECT ARREST
66. ENTRY TO LICENSED PREMISES
67. CESSATION OF POLICE POWERS
68. USE OF FORCE AGAINST INDIVIDUALS
69. CORPORAL PUNISHMENT

70. REGULATIONS FOR THE USE AND POSSESSION OF POLICE EQUIPMENT
71. AUTHORISATION FOR THE USE AND POSSESSION OF POLICE WEAPONS
72. FIREARMS LICENCE
73. DRIVING LICENCE
74. POLICE DOGS AND ANIMALS
75. REQUESTING IDENTIFYING INFORMATION
76. DETAINING A PERSON TO OBTAIN IDENTIFYING INFORMATION
77. POWER TO INSPECT LICENCE
78. POWER TO REMOVE OR EXCLUDE PERSONS
79. POWERS RELATING TO ENTRY TO PUBLIC BUILDINGS
80. GENERAL POWER TO KEEP ORDER ON PUBLIC ROADS
81. STOPPING VEHICLES
82. REMOVAL OF DEFECTIVE VEHICLES
83. ARREST OF INTOXICATED DRIVERS
84. PROHIBITING A PERSON DRIVING
85. MOVING A VEHICLE
86. INVESTIGATING A TRAFFIC ACCIDENT
87. INSPECTION OF VEHICLES
88. POWER OF ARREST WITHOUT WARRANT
89. POWER OF ARREST OF INTOXICATED PERSONS
90. POWER OF ARREST WITH WARRANT
91. SEARCH OF PERSON IN CUSTODY
92. SEARCH OF PERSON WITHOUT WARRANT
93. SAFEGUARDS FOR SEARCHES OF PERSONS
94. SEARCHES OF CHILDREN OR VULNERABLE PERSONS
95. INFORMATION FOR ARRESTED PERSONS
96. PERSON ASSISTING WITH AN INVESTIGATION
97. POWER TO COLLECT IDENTIFYING INFORMATION
98. POWER TO COLLECT FORENSIC SAMPLE
99. REQUEST FOR THE SUPPLY OF IDENTIFYING INFORMATION OR FORENSIC SAMPLE
100. PROVISION OF FORENSIC SAMPLE TO SUSPECT
101. STORAGE OF IDENTIFYING INFORMATION AND FORENSIC SAMPLES
102. SEARCH OF VEHICLES WITHOUT A WARRANT
103. ELECTRONIC SCREENING DEVICES
104. APPLICATION FOR SEARCH WARRANT
105. AUTHORITY CONFERRED BY SEARCH WARRANT
106. DETENTION OF SEIZED GOODS
107. WARRANT TO USE SURVEILLANCE DEVICES
108. ESTABLISHMENT OF A CRIME SCENE
109. PRESERVING EVIDENCE AT A CRIME SCENE
110. DIRECTING A PERSON TO MOVE ON

111. CRIMINAL RECORD CHECKS

PART 5**CONDUCT AND DISCIPLINE**

- 112. DEFINITION OF BREACH OF DISCIPLINE
- 113. PROFESSIONAL STANDARDS AND INTERNAL INVESTIGATIONS UNIT
- 114. REPORT BREACH OF DISCIPLINE OR OFFENCE
- 115. INTERNAL COMPLAINTS
- 116. PUBLIC COMPLAINTS
- 117. POWER TO DISCIPLINE
- 118. MAJOR DISCIPLINARY OFFENCES
- 119. MINOR DISCIPLINARY OFFENCES
- 120. INVESTIGATION OF BREACH OF DISCIPLINE
- 121. SEARCH OF OFFICERS
- 122. SUSPENSION PENDING INQUIRY
- 123. PAY WHILST SUSPENDED
- 124. ACT AND REGULATIONS APPLY TO SUSPENDED POLICE OFFICER
- 125. DISCIPLINARY ACTION AFTER LEAVING THE POLICE FORCE
- 126. BREACH OF SUSPENSION ORDER
- 127. INQUIRY INTO BREACH OF DISCIPLINE
- 128. DISPENSING WITH AN INQUIRY
- 129. CONCILIATION
- 130. SUMMARY REPRIMAND
- 131. BURDEN OF PROOF FOR INQUIRY
- 132. PENALTIES
- 133. DISMISSAL OR DEMOTION AFTER COURT CONVICTION
- 134. APPEAL AFTER DISMISSAL OR DEMOTION
- 135. PENALTIES FOR SERIOUS OFFENCES
- 136. NOTICE OF TRANSFER FOR PENALTY IMPOSITION
- 137. REPORTS OF INQUIRIES
- 138. DISCIPLINARY TRIBUNAL
- 139. NOTIFICATION OF CHARGE
- 140. RIGHT OF APPEAL
- 141. APPEAL TO POLICE AND PRISON SERVICES COMMISSION
- 142. NOTICE OF APPEAL
- 143. REVIEW BY COMMISSIONER
- 144. OPTIONS UPON REVIEW
- 145. SUMMONS TO WITNESS

- 146. OFFICER MUST ANSWER QUESTIONS
- 147. RECOVERY OF FINES FROM PAY
- 148. COMPENSATION FOR PROPERTY LOSS OR DAMAGE
- 149. NO PAY WHILST ABSENT FROM DUTY
- 150. NO PAY WHILST SERVING A SENTENCE OF IMPRISONMENT

PART 6

FIRE AND RESCUE SERVICE

- 151. ESTABLISHMENT OF THE FIRE AND RESCUE SERVICE
- 152. APPOINTMENT OF DIRECTOR
- 153. FUNCTIONS OF THE FIRE AND RESCUE SERVICE
- 154. EXERCISE OF POWERS
- 155. OFFENCES RELATING TO FIRE AND RESCUE SERVICE FUNCTIONS
- 156. RISK ABATEMENT ORDER
- 157. CONTENTS OF RISK ABATEMENT ORDER
- 158. BREACH OF RISK ABATEMENT ORDER
- 159. SERVICE OF RISK ABATEMENT ORDER
- 160. OBJECTION TO RISK ABATEMENT ORDER
- 161. APPEAL TO HIGH COURT
- 162. INSPECTION OF PREMISES
- 163. REMOVAL OF FIRE HAZARD

PART 7

POLICE MARITIME DIVISION

- 164. ESTABLISHMENT OF POLICE MARITIME DIVISION
- 165. APPOINTMENT OF DIVISION COMMANDER
- 166. CONSTITUTION OF THE DIVISION
- 167. RESPONSIBILITIES OF COMMANDING OFFICERS
- 168. FUNCTIONS OF THE POLICE MARITIME DIVISION
- 169. EXERCISE OF POWERS

PART 8

EXTERNAL RELATIONSHIPS

- 170. DEFINITIONS
- 171. POWER TO ORDER SERVICE OUTSIDE SOLOMON ISLANDS
- 172. PUNISHMENT IN FOREIGN COUNTRY
- 173. DEPLOYMENT OF FOREIGN POLICE OFFICERS
- 174. LEAVE FOR OUTSIDE EMPLOYMENT
- 175. RELATIONSHIP TO FACILITATION OF INTERNATIONAL ASSISTANCE ACT 2003

PART 9**OFFENCES**

- 176. PROSECUTION FOR OFFENCES
- 177. FALSE NAME AND ADDRESS
- 178. GAINING EMPLOYMENT BY FALSE REPRESENTATION
- 179. REFUSING TO PROVIDE FORENSIC SAMPLE
- 180. IMPROPER USE OF IDENTIFYING INFORMATION
- 181. FAIL TO ATTEND FOR DISCIPLINARY HEARING
- 182. FAILURE TO RETURN POLICE PROPERTY
- 183. POSSESS POLICE PROPERTY
- 184. USE POLICE WEAPONS
- 185. POSSESS POLICE WEAPONS
- 186. FAILING TO HELP POLICE OFFICER
- 187. GIVING FALSE INFORMATION
- 188. MAKING FALSE REPORT
- 189. OFFENCES AT A CRIME SCENE
- 190. ASSAULT POLICE OFFICER
- 191. STRIKES OR LOCKOUTS
- 192. INDUCING STRIKES
- 193. OFFENSIVE BEHAVIOUR IN POLICE PREMISES
- 194. ACCEPTING BRIBES
- 195. OFFERING BRIBES
- 196. IMPERSONATING A POLICE OFFICER OR POLICE VEHICLE
- 197. USE OF POLICE NAME IN ACTION OR ACTIVITY
- 198. UNLAWFUL DEALINGS WITH PRISONERS
- 199. ESCAPING FROM CUSTODY
- 200. DISOBEY LAWFUL ORDER OR DIRECTION
- 201. KILLING OR INJURING POLICE ANIMALS
- 202. USE OF AND ACCESS TO INFORMATION

PART 10**MISCELLANEOUS**

- 203. POLICE BAND
- 204. POLITICAL ACTIVITY
- 205. SECONDARY EMPLOYMENT
- 206. TRADE UNION ACTIVITY
- 207. POLICE OFFICER'S ASSOCIATION
- 208. LOST PROPERTY
- 209. DISPUTED PROPERTY
- 210. POLICE FUND
- 211. ADMINISTRATION OF POLICE FUND
- 212. PROTECTION FOR OFFICERS ACTING IN GOOD FAITH

- 213. PROTECTION FOR PERSONS ASSISTING THE POLICE
- 214. PROTECTION FOR EXECUTION OF COURT PROCESS
- 215. SPECIAL POLICE SERVICES
- 216. FEES FOR SPECIAL POLICE SERVICES
- 217. SCALE OF FEES
- 218. REGULATIONS
- 219. POLICE MAY APPEAR IN COURT BY OTHER POLICE
- 220. EVIDENTIARY PROVISIONS
- 221. REPEAL OF THE POLICE ACT (CAP.110)
- 222. CONTINUATION OF PREVIOUS POLICE FORCE
- 223. POLICE ACT (CAP. 110) PROCEEDINGS
- 224. PROCEEDINGS FOR BREACH OF DISCIPLINE
- 225. ACTIONS AND INSTRUMENTS
- 226. CONTINUATION OF REGULATIONS
- 227. POLICE PROPERTY AND FACILITIES
- 228. REFERENCE TO POLICE ACT (CAP.110)

POLICE BILL 2013

PART 1 – PRELIMINARY

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

Short title and commencement

2. In this Act -

Interpretation

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

“arms” includes firearms;

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

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

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

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

“crime scene” means -

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

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

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

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

“disciplinary control” means imposing the following punishments for a breach of a disciplinary offence -

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

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

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

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

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

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

“forensic procedure” includes -

- (a) an examination of a part of the body that requires touching of the body or the removal of clothing;

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

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

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

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

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

“opened container” includes a container that has been opened, even if it is closed at the material time, and regardless of whether or not some of its contents have been removed;

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

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

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

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

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

“police property” means -

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

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

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

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

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

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

“restricted communication” means -

- (a) any communication that may prejudice the maintenance of the law, the safe custody of a prisoner, the safety or any other person or the security of any police station, police post or police cell; and

- (b) any communication that takes place after the police officer in whose charge the prisoner is, has forbidden that communication or directed that it cease;

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

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

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

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

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

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

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

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

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

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

“violence” means

- (a) physical abuse;
- (b) sexual abuse; or

- (c) psychological abuse including intimidation, abuse, harassment, damage to property and threats to do any of those acts.

PART 2

GOVERNANCE AND ADMINISTRATION

Name of police force

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

Statement of principles

4. This Act is based on the following principles -

- (a) upholding the rule of law;
- (b) respecting customary law, cultural practices and ethnic diversity;
- (c) preserving the human rights of individuals;
- (d) demonstrating gender equity;
- (e) performing duties impartially and independently from improper influence;
- (f) professionalism, ethical behaviour and integrity;
- (g) conducting all aspects of policing with fairness, transparency and accountability;
- (h) working together with the local communities;
- (i) working together with non-government organisations, churches, faith based organisations and community based organisations; and
- (j) working co-operatively with other Government agencies.

Code of Conduct

5. (1) A Code of Conduct shall be prescribed by regulation stating the standards of behaviour to apply to all police officers, authorised officers and specialist employees.

(2) Any breach of the Code of Conduct constitutes a disciplinary offence.

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

7. The functions of the Royal Solomon Islands Police Force includes -

Functions of the
police force

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

8. The Royal Solomon Islands Police Force shall consist of -

Constitution of
the police force

- (a) the Commissioner of Police;
- (b) two Deputy Commissioners of Police;

- (c) other ranks of police officers in accordance with this Act or as may be prescribed in accordance with the Constitution;
- (d) specialist employees appointed in accordance with this Act; and
- (e) authorised officers appointed in accordance with this Act.

Emergency
military force

9. (1) During a period of public emergency as defined in section 16 of the Constitution, the Prime Minister may direct that the police force or any part of the police force shall be employed as a military force for the period of public emergency.

(2) Members of the police force employed as a military force shall comply with the orders of -

- (a) the Commissioner of Police; or
- (b) any other military authority approved by a resolution of Parliament supported by the votes of at least two-thirds of all members of Parliament.

(3) A direction under subsection (2)(b) that the police force will comply with the orders of a military authority shall not affect -

- (a) any powers of appointment, dismissal or disciplinary control of members of the police force conferred upon any person by this Act, the Constitution or any other Act; or
- (b) except so far as the resolution of Parliament directs, the command, supervision and direction of the police force vested in the Commissioner under this Act.

Commissioner of
Police

10. (1) The Governor-General shall appoint a Commissioner of Police subject to the provisions of the Constitution.

(2) The Commissioner of Police shall by order, subject to the provisions of the Constitution -

- (a) provide for the command, supervision and direction of all police officers in accordance with this Act;

- (b) administer and control the operations of the police force;
- (c) determine the use of police officers and police force resources; and
- (d) make orders consistent with this Act or any regulations for the administration, safety, security, efficiency, discipline, training and good governance of the police force.

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

Commissioner's
Responsibilities

- (a) to ensure the security and accuracy of all records and information systems;
- (b) to ensure the safe storage, recording and return of public property and exhibits;
- (c) to ensure that requests and complaints from all persons are dealt with in a fair, prompt and effective manner;
- (d) to monitor, record and report upon all significant incidents relating to public security and public order;
- (e) to maintain discipline and order through a fair and equitable process;
- (f) to ensure that all police officers and specialist employees recognise and respect different languages and different cultures in the workplace and in the community;
- (g) to ensure that the Statement of Principles in this Act is upheld;
- (h) to ensure that all police officers and specialist employees comply with the Code of Conduct;
- (i) to ensure safe and responsible distribution, usage and storage of all clothing, equipment, arms and property;

- (j) to ensure that all orders and policies comply with Solomon Islands laws and international legal obligations;
- (k) to facilitate and support close and effective working relationships between chiefs, community leaders, religious leaders, community members and the police force that contribute to public safety and public order; and
- (l) administer and account for all financial resources and public money issued to the police force.

Independence of
the Commissioner

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

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

Commissioner's
Orders

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

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

Commissioner's
power to delegate

14. (1) The Commissioner may delegate, by order, the exercise of any function, power, duty or responsibility under this or any other Act, to -

- (a) any police officer, authorised officer or specialist employee of the police force or

- (b) any person, or class of persons authorised by the regulations.

(2) The Commissioner may appoint any police officer, authorised officer or specialist employee to be in command or control of the police in any place or on any operation.

(3) Any delegation or appointment made under this section may be made subject to any conditions or restrictions that the Commissioner deems appropriate, including factors or criteria that must be taken into account when the command or delegation is exercised.

(4) The Commissioner may exercise any power that has been delegated under this section and may, by order, revoke or amend any delegation.

15. (1) The Commissioner may delegate by order in writing the responsibilities and functions under the Act for the administrative command and direction of all police stations, police posts and police officers in any province to the Provincial Police Commander for the province.

Delegation to
Provincial
Commanders

(2) The Provincial Police Commander of each province is responsible to the Commissioner for the safe custody, issue and use of police property, financial resources and public money issued to the province.

Responsibilities
of Minister

16. The Minister shall be responsible for -

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

17. The Royal Solomon Islands Police Force shall consist of the following ranks -

Ranks

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

Commissioner's
Reports

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

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

PART 3 EMPLOYMENT

Appointments

19. (1) The Police and Prison Services Commission may make appointments, including temporary or acting appointments, for officers in the police force of or above the rank of Inspector.

(2) The Commissioner may make appointments, including temporary or acting appointments for officers in the police force below the rank of Inspector.

(3) The Public Service Commission may make appointments for specialist employees working in the police force.

20. As a condition of employment as a police officer, authorised officer or specialist employee, a person may be required to:

Prospective employees to provide information

- (a) provide evidence of any qualifications or experience required for the position;
- (b) provide fingerprints, biometric information or bodily sample;
- (c) provide identification evidence; and
- (d) provide medical or other reports relevant to determining whether the applicant is capable of performing the required duties.

21. (1) All appointments of police officers and specialist employees, including acting appointments, promotions and transfers shall be based on merit. Preference must be given to the person who is best qualified and suited for the position.

Merit appointments

(2) In determining the merit of the applicant, consideration must be given to:

- (a) the integrity, diligence and conduct and past performance of the person;
- (b) the potential of the person to discharge the duties of the position;
- (c) the educational or vocational training qualifications of the applicant;
- (d) the ability, aptitude, skill, knowledge and experience of the person to meet the requirements of the position; and
- (e) the physical and mental fitness of the person to perform the duties of the position.

(3) Notwithstanding the above, where candidates are of equal merit, the Commissioner may take into account the need for the police force to contain officers from a wide variety of language groups, to have officers from all provinces and to promote gender and ethnic equity.

Qualifications
for appointment

22. (1) The Commissioner may determine the qualifications, skills, knowledge or attributes that are required for appointment to any position, provided that the requirements sought are a genuine occupational requirement for the position.

(2) In determining the qualifications, skills, knowledge or attributes required for a position, the Commissioner must have regard to the principles of ethnic diversity, gender equity and protection of human rights.

Obligation to
notify vacancies

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

Applications
from outside
the police force

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

Appointments
from outside
the police force

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

- (a) there is no applicant who is a current member of the police force with greater or equal merit;
- (b) the person has the requisite skills, knowledge, qualifications and training; and
- (c) the person is not a former police officer who has been found guilty of any major disciplinary offence or has been dismissed from the police force.

(2) A person employed pursuant to this section may be appointed -

- (a) to a specified position, rank or grade;
- (b) for a permanent, fixed or specified term; or
- (c) to perform specific duties and on such terms and conditions as are set out in the contract of employment.

(3) A person who is employed in the police force but is not a sworn member may not perform policing functions or exercise police powers other than the functions specified in the terms and conditions of their employment.

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

Obligation to notify appointments

27. (1) The Commissioner or the Police and Prison Services Commission may, by instrument in writing, appoint any person to be an authorised officer to assist the police force in the performance of its functions.

Appointment of authorised officers

(2) The instrument of appointment shall specify the date of commencement and the term of appointment for each authorised officer.

(3) If the Commissioner appoints a person under subsection (1), the Commissioner must be satisfied that the person meets the recruitment eligibility requirements and has been adequately trained to properly exercise the powers conferred by the instrument of appointment.

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

28. (1) An authorised officer may resign by giving a signed notice of resignation to the Commissioner.

Resignation of authorised officer

(2) A resignation is not effective until it is approved in writing by the Commissioner.

29. (1) The Commissioner may authorise a police officer to be attached to a public office in a Solomon Islands Ministry at the request of -

Attachment to a public officer

(a) a police officer;

(b) a Minister;

(c) a Permanent Secretary of a Ministry, or

(d) the Public Service Commission.

(2) The appointment may be made on conditions set by the Commissioner including the period of time of the appointment and the commencement date.

(3) The Commissioner may grant leave of absence without pay for the duration of the appointment.

(4) The Commissioner may fill the position of an officer who is appointed to a public office and declare the officer unattached.

(5) When an unattached member returns to the police force from a position as a public officer, the officer shall be reappointed to a position not lower than his or her former rank when a suitable position becomes available, provided that the officer has complied with the conditions of appointment set by the Commissioner.

Enlistment/
Probation

30. (1) All police officers recruited to the police force shall be placed on probation.

(2) The period of probation continues for two years, including time spent undertaking the basic training course. All officers must display good conduct and satisfactory performance throughout the probation period to be eligible for permanent appointment.

(3) The period of probation may be extended for any period up to a maximum of three years from the start of training if the recruit -

- (a) has been absent on authorised leave for part of the probation period; or
- (b) has not completed all the training and work experience requirements to a satisfactory standard; and
- (c) there is a reasonable expectation that the recruit will be able to complete the necessary requirements in the extension period.

(4) The period of probation may be shortened or waived if the recruit -

- (a) has completed all the training and work experience requirements to a satisfactory level; or

- (b) is a former police officer who has previously completed the training and work experience requirements to a satisfactory level.
31. All persons eligible to apply for recruitment into the police force must - Enlistment requirements
- (a) meet the prescribed minimum standards of education;
 - (b) be over the age of 18 years;
 - (c) be physically and mentally fit to perform the duties of a police officer;
 - (d) be of good character;
 - (e) comply with any other prescribed requirements; and
 - (f) provide any documents or other material requested as evidence of compliance with the prescribed selection criteria.
32. (1) Every police recruit who has successfully completed all basic training and work experience requirements shall become a sworn member of the police force by making the declaration on oath or by affirmation before the Commissioner or any officer above the rank of Inspector. Declaration on oath
- (2) Every police officer must make the oath or affirmation before undertaking any duties of office.
 - (3) The form of oath or affirmation shall be as set out in the Schedule to the Act.
33. (1) The Commissioner must provide every police officer with evidence of the officer's identity and authority. Evidence of appointment
- (2) The evidence must be in the prescribed form and contain the prescribed information.
34. (1) Unless otherwise authorised, every officer on duty must wear the police uniform, appointments and accoutrements as directed by the Commissioner. Uniforms and equipment
- (2) All police uniforms, appointments, accoutrements and police property issued to any officer remains the property of the police force and shall only be used in connection with official duties.

- Place of service including -
- 35.** (1) All police officer must serve in any location or place
- (a) any location within Solomon Islands;
 - (b) on any vessel, vehicle or aircraft;
 - (c) any location outside Solomon Islands subject to the provisions of Part 8.
- (2) The power to make postings and transfers for police officers of any rank is vested in the Commissioner.
- Promotions below inspector rank
- 36.** (1) The Commissioner may, subject to this Part, make promotions in respect of all police officers below the rank of Inspector.
- (2) In determining whether to promote an officer to a position, the Commissioner may refer any question relating to the promotion to a Police Promotions Board but is not bound to follow the advice and shall make his or her own determination in each case.
- (3) The Commissioner may make orders in relation to the practices and procedures to be followed in relation to advertising vacancies and making promotions.
- Promotions above inspector rank
- 37.** The Police and Prison Services Commission, subject to the Constitution and this Act, may make promotions to officers in the police force of or above the rank of Inspector.
- Police Promotion Boards
- 38.** (1) The Commissioner may appoint officers to be members of Police Promotion Boards for periods of time determined by the Commissioner.
- (2) Police Promotion Boards shall meet when directed by the Commissioner and shall provide advice to the Commissioner on any matters relating to promotions of officers below the rank of Inspector that have been referred by the Commissioner.
- (3) Police Promotion Boards may provide advice on the promotion decisions made by selection panels if requested by the Commissioner.
- (4) The Commissioner may make orders in relation to the procedures and practices to be followed by Police Promotion Boards.

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

40. (1) Any officer unable to attend for duty due to illness or misadventure must immediately report the matter to his or her immediate supervisor or the officer in command of the station, post or place where the officer is rostered for duty.

Absence due to
illness

(2) Any officer who fails to attend for duty due to illness or misadventure must produce a medical certificate or other evidence of illness in accordance with the Commissioner's Orders.

(3) Any officer who fails to attend for duty and report the illness or misadventure, or fails to produce a medical certificate or evidence of illness is deemed to be on unauthorised leave and no pay or entitlements will accrue to the officer for the duration of the unauthorised absence.

41. (1) No officer shall be absent from duty or leave their appointed place of duty without the authority of the commissioner, Provincial Police Commander or their immediate supervising officer.

Leave or
absence from
duty

(2) All officers authorised to leave their place of duty may do so only after handing over their duties and any equipment in their charge to the officer relieving in the position.

42. (1) Any police officer may resign from the police force by giving a signed notice of resignation to the Commissioner at least three months prior to the proposed date of resignation.

Resignation

(2) A resignation is not effective until it is approved in writing by the Commissioner.

(3) A police officer who is subject to any disciplinary inquiry or disciplinary action may resign from the police force but is deemed to be a police officer for disciplinary purposes until the disciplinary action is completed.

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

Transfer or
retirement due
to incapacity

43. (1) If the Commissioner believes that any officer has become permanently medically unfit to discharge the duties of office efficiently, the Commissioner may require the officer to undergo a medical examination within a stated period.

(2) If the medical practitioner certifies that the officer is unfit to perform any specified duties, the Commissioner may -

- (a) transfer the officer to other duties of equal or lower rank and salary; or
- (b) require the officer to retire from the police force within a specified time.

Retaining
officers due to
emergency

44. The Commissioner may, during a state of war, insurrection, hostilities or period of public emergency -

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

Termination

45. A police officer ceases to be a member of the police force -

- (a) when his or her resignation has been approved by the Commissioner;
- (b) when the officer has been required to retire by the Commissioner due to medical incapacity;
- (c) when the officer has been dismissed as a result of disciplinary action;
- (d) when the officer has been convicted of an offence for which a term of imprisonment has been imposed by a court; or
- (e) when the officer has been discharged.

Retirement

46. (1) Subject to subsection (2), the compulsory retirement age for police officers shall be 55 years of age.

(2) Upon application by a member, the Commissioner may -

- (a) allow the officer to retire at any age between 50 and 55 years; or

- (b) determine that the maximum retirement age for that officer is a specified age being over 55 years but less than 60 years.

(3) The retirement age shall not apply to the Commissioner or other police officers engaged under specified terms and conditions.

47. (1) A police officer or recruit who is undergoing basic training or serving his or her probation period may be discharged from the police force at any time if the Commissioner considers that -

Discharge of
recruits and
Probationary
Constables

- (a) the person is unlikely to become an efficient police officer;
- (b) the person has breached the Code of Conduct;
- (c) the person has committed a disciplinary offence;
- (d) the person did not meet the minimum requirements for recruitment; or
- (e) the person supplied false or misleading information in their application for employment.

(2) A person discharged under this section shall be given one month's notice of the intention to discharge or be given one month's pay in lieu of the notice.

48. (1) A police officer who ceases to be a member of the police force must immediately deliver up any evidence of appointment, arms, ammunition, equipment, police uniform and other appointments or police property in their custody which was given to the former member for the purposes of carrying out official duties as a member of the police force.

Delivery of
arms and
equipment

(2) All property must be delivered up to the officer appointed by the Commissioner for that purpose or to the officer in command of the place in which the officer was last stationed.

PART 4
POWERS AND DUTIES

General powers
and duties

49. (1) A police officer may exercise any power conferred on a police officer by this Act or any other law or common law.

- (2) A police officer shall obey -
- (a) Commissioner's Orders;
 - (b) policies approved by the Commissioner;
 - (c) any applicable local orders issued by Provincial Police Commanders; and
 - (d) lawful commands of a supervisor or officer in command.

- (3) A police officer has a duty to -
- (a) promptly obey and execute all orders and warrants lawfully issued by any competent authority;
 - (b) collect and communicate intelligence affecting the public peace;
 - (c) prevent the commission of offences and public nuisances;
 - (d) detect offenders and bring them to justice; and
 - (e) apprehend all persons whom he or she is legally authorised to apprehend provided that sufficient grounds for apprehension exist.

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

Detention of
articles

50. (1) Unless this Act otherwise provides expressly or by implication, this Act does not limit -

- (a) the functions, obligations and liabilities that a police officer has as a constable at common law;
- (b) the functions that a police officer may lawfully exercise, whether under any other law or as an individual citizen; or

- (c) the powers conferred by common law on police officers to deal with breaches of the peace.

51. (1) This section applies if a police officer suspects, on reasonable grounds, that -

Dealing with breaches of the peace

- (a) a breach of the peace is happening or has happened; or
- (b) there is an imminent likelihood of a breach of the peace; or
- (c) there is a threatened breach of the peace.

(2) A police officer may take steps that the police officer considers are reasonably necessary to prevent the breach of the peace happening or continuing.

52. (1) This section applies if a police officer suspects, on reasonable grounds, that an offence -

Preventing offences generally

- (a) has been committed; or
- (b) is being committed; or
- (c) is about to be committed.

(2) A police officer may take steps that the police officer considers are reasonably necessary to prevent the commission of that offence or the commission of a further offence.

53. (1) This section applies if -

Prevention of offences relating to liquor

- (a) a police officer suspects, on reasonable grounds, that a person has committed, is committing, or is about to commit an offence against the Liquor Act (Cap. 144); or
- (b) the police officer suspects, on reasonable grounds, that an opened container of alcoholic drink at the place, or in the person's possession or under the person's control, relates to, is contributing to, or is likely to contribute to the commission of the offence by the person.

- (2) The police officer may seize -
- (a) the opened container and its contents; and
 - (b) any unopened container of alcohol drink at the place, and its contents, that the police officer suspects, on reasonable grounds, relates to, or is contributing to, or is likely to contribute to, the commission of an offence against a provision of the Liquor Act (Cap. 144) at the place by the person or another person.

(3) A police officer may dispose of anything that is seized under this section in the way the police officer considers reasonably necessary to prevent the commission, continuation or repetition of the offence.

Preventing
riots

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

Dispersing
procession or
assembly

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

Arrest for
breaching
Processions
and Public
Assemblies
Act

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

Entry to
premises to
prevent
violence

57. (1) This section applies if a police officer suspects, on reasonable grounds, that -

- (a) an act of violence is occurring or has occurred on the premises;
- (b) there is an imminent risk of either violence or injury to a person or an offence involving damage to property; or
- (c) a breach of the peace is being or is likely to be committed and it is necessary to enter the premises to end or prevent the breach.

(2) A police officer may -

- (a) enter the premises;
 - (b) remain on the premises as long as is reasonably necessary to take remedial or preventative action; and
 - (c) give or arrange assistance or help to any person at the premises.
- (3) If the police officer is reasonably satisfied that a reason for entry exists, the police officer may do any of the following -
- (a) detain a person for a search, or to prevent acts of violence or damage to property;
 - (b) search anyone detained for anything that may be, or has been, used to cause the violence, injury or damage; and
 - (c) search the premises for any person who may be a victim of violence or at risk of being injured or for any thing that may be, has been or might be used to cause violence, injury or damage.

(4) The power of search conferred by subsection (3) is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.

58. (1) This section applies if a police officer suspects, on reasonable grounds, that someone inside any premises, vehicle, aircraft or vessel is dead, likely to die or suffer permanent injury or in need of urgent medical treatment.

Entry for
investigating
death or injury

(2) The police officer may, with or without the consent of the owner or occupier -

- (a) use the force that is reasonably necessary to break into the premises, vehicle, aircraft or vessel; and
- (b) enter the private premises, vehicle, aircraft or vessel to find out whether someone is dead, injured or in need of medical treatment; and

- c) stay on the premises or in the vehicle, aircraft or vessel for only as long as it is necessary in the circumstances for the police to ensure that anything that needs to be done for the person is done.

Entry for
investigating
unnatural
deaths

59. (1) If a police officer suspects, on reasonable grounds, that a person's death was brought about, or accelerated by an unnatural cause, the police officer shall -

- (a) if the body can be found, arrange for the deceased person's body to be taken to hospital; and
- (b) ask a magistrate to order a medical practitioner to examine the deceased person's body and determine the cause of death.

(2) The police officer may seize anything that the police officer suspects on reasonable grounds might be relevant to a magistrate's inquiry into the cause of death at the place where the deceased person's body was found or where the death apparently occurred.

(3) The police officer may photograph the deceased person's body or anything else at the place that the police officer suspects on reasonable grounds may be relevant to a magistrate's inquiry into the cause of death.

Obtaining
information
into the cause
of unnatural
death

60. (1) A police officer shall, upon request by a magistrate holding an inquiry into an unnatural death, assist the magistrate to investigate the death and to obtain information relevant to the inquiry.

(2) A police officer may question any person, whom the police officer suspects on reasonable grounds may be able to give information that is relevant to the inquiry.

(3) When questioning a person for the purposes of obtaining information about an unnatural death the police officer must inform the person that -

- (a) the person may refuse to answer questions or give information, if the information would tend to incriminate the person; and

- (b) the person may seek legal advice before giving the information.

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

Service of court process

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

Entry to property for serving court process

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

63. (1) A police officer may enter and stay on a place for a reasonable time to inquire into or investigate a matter.

Entry for the purpose of investigation

(2) Notwithstanding subsection (1) a police officer may not -

- (a) enter a dwelling house unless the occupier of the dwelling house consents to the entry; and
- (b) may not enter and remain on private property unless authorised under search warrant of other lawful authority.

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

Entry to effect arrest

65. (1) If the property contains a dwelling the police officer may enter without the consent of the occupier only if the police officer suspects, on reasonable grounds the person to be arrested is at or in the dwelling.

Entry to dwelling house to effect arrest

(2) If the person was arrested for a serious offence, a police officer may enter and search any premises where the person was arrested for evidence relating to the offence but only -

- (a) to the extent that is reasonably required for locating and seizing such evidence; and

- (b) if the police officer has reasonable grounds to believe that there is evidence of the commission of the crime on the property.

Entry to licensed premises

66. A police officer may at any time -

- (a) enter licensed premises or any premises where it is permitted to sell and consume alcoholic drinks; and
- (b) request the name, address and age of any person on or in the premises.

Cessation of police powers

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

Use of force against individuals

68. (1) A police officer who is exercising or attempting to exercise power against an individual under this or any other Act or law may use reasonable and proportionate force to exercise the power.

(2) The force that a police officer may use under this section shall not include force that is likely to cause death or grievous bodily harm to a person unless it is necessary to prevent death or serious injury to the police officer or another person.

(3) A police officer who is required to use any instrument of restraint, tactical weapon or firearm must submit a report as soon as practicable to his or her supervisor, officer in command, Provincial Police Commander or Commissioner in accordance with the Regulations and Commissioner's Orders.

Corporal punishment

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

Regulations for use and possession of police weapons

70. (1) The Minister, after consultation with the Prime Minister, may make regulations specifying -

- (a) what police weapons and firearms may be used by police; and
- (b) the circumstances under which police weapons are to be issued and used.

(2) All police issued with police weapons must be trained and competent in the use of the specific item of equipment issued to the officer.

(3) All police weapons prescribed pursuant to subsection (1) must be of a type approved, in writing by the Prime Minister and the Commissioner.

(4) The Commissioner may make orders relating to -

- (a) to the issue, training and circumstances for use of police weapons; and
- (b) the distribution, maintenance, handling, storage and record keeping of all police weapons.

(5) All police weapons must be used strictly in accordance with the regulations and the Commissioner's Orders.

71. (1) The Commissioner may authorise any person to have in his or her possession any prescribed police weapon provided that the Commissioner is satisfied that it is reasonable and necessary for the person to possess the police weapon.

Authorisation
for the use and
possession of
police weapons

(2) An authorisation is subject to any conditions included in the authorisation and may be revoked by the Commissioner at any time.

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

Firearms
licence

73. A police officer driving a police vehicle or vessel is required to hold a licence and -

Driving
licence

- (a) the police officer must undergo and pass a training course approved by the Commissioner; and
- (b) must be certified as competent to safely control that vehicle or vessel.

74. (1) The Commissioner may authorise a police officer to use a police dog or other prescribed police animal to assist the police officer generally in the exercise of his or her duties or to assist in the detection of specific goods and substances.

Police dogs
and animals

(2) Any police officer who uses a police dog or animal must -

- (a) comply with any Commissioner's Orders, instructions or, policies in relation to the use of police dogs or animals; and
- (b) have successfully completed the required training course in relation to the use of police dogs or animals.

(3) A police animal under the control of a police officer may enter and be on any place that the police officer may lawfully be in the course of police duties.

Requesting
identifying
information

75. (1) A police officer may require a person to state the person's full name, residential address and date of birth if -

- (a) the police officer finds the person committing an offence;
- (b) the police officer suspects, on reasonable grounds, that the person has committed an offence;
- (c) the police officer suspects, on reasonable grounds that the person may be able to help in the investigation of a vehicle, vessel or aircraft incident or criminal offence because the person was near the place where the incident or offence occurred at or about the time when the incident or offence occurred;
- (d) the person is in control of a vehicle, aircraft or vessel;
- (e) the police officer is attempting to enforce a court order in relation to a person or to serve a court document on a person; or
- (f) the person is performing an activity that is required by law to be performed under a licence.

(2) The police officer requesting the identifying particulars pursuant to subsection (1) may require the person to give evidence of the correctness of the name, address or date of birth given by the person if, in the circumstances, it would be reasonable to expect the person to be in possession of such evidence.

(3) A police officer requesting information under subsections (1) and (2) may detain the person for only as long as is reasonably necessary to obtain and verify the particulars.

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

Detaining a person to obtain identifying information

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

77. If any person is required by any law to have any of the following items -

Power to inspect licence

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

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

78. (1) A police officer may remove or exclude a person or vehicle, vessel or aircraft from any private or public premises if:

Power to remove or exclude persons

- (a) the premises are a crime scene and it is necessary for the police officer to secure the crime scene;
- (b) the police officer believes on reasonable grounds that it is necessary to do so to ensure the safety of any person;

- (c) it is necessary to prevent a breach of the peace or the commission of an offence; or
- (d) the premises are the scene of a coronial investigation or fire inquiry.

(2) In order to exclude a person or persons under subsection (1), the police officer may do any of the following:

- (a) enter the premises;
- (b) use reasonable force to exclude or remove a person from the premises;
- (c) erect barricades, barriers on the road or premises;
- (d) erect signs or notices on or near the premises; and
- (e) anything that the police officer considers reasonable necessary to prevent access or egress to or from the premises.

Powers relating to entry to public buildings

79. (1) A police officer may require a person entering a building belonging to the government or being used for the business of government to state the person's reason for entering the building.

(2) If a police officer considers, on reasonable grounds that it is necessary to do so, the police officer may ask the person to do one or more of the following -

- (a) allow the police officer to inspect the person's belongings;
- (b) remove any outer garments and allow them to be inspected;
- (c) remove any items from the person's clothing and allow the items to be inspected;
- (d) open a vehicle, vessel, aircraft or package or baggage and allow an inspection; and
- (e) allow a police officer of the same gender to conduct a pat search.

(3) For the purposes of this section "pat search" means -

- (a) quick running the hands over a person's outer clothing; or
- (b) using an electronic or other scanning device or police animal in close proximity to the person; and
- (c) an examination of anything worn by the person that can be conveniently and voluntarily removed by the person.

(4) The police officer may refuse to allow any property or item to be brought into the building or to remain in the building if the officer is of the opinion that it may compromise the safety and security of the building or any person.

(5) A police officer may direct any person to leave a building, and may use reasonable and proportionate force to evict any person, who does not comply with any request or direction given by a police officer under this section.

80. (1) It shall be the lawful duty of any police officer to -

- (a) regulate and control vehicular traffic, including parked vehicles;
- (b) regulate and control pedestrians on or adjacent to roads;
- (c) divert all or any particular kind of vehicle;
- (d) restrict, close or deny access to any or all persons or vehicles to any road, street, thoroughfare, footpath or landing; and
- (e) keep order on public roads, streets, thoroughfares, landing places, footpaths, and at other places to which the public have access.

General power
to keep order on
public roads

(2) Any person who opposes or disobeys a lawful direction or order given by a police officer in the performance of his or her duty may be arrested without a warrant unless the person provides sufficient identifying

information to the police officer to satisfy the officer that the person will obey any summons or attend any proceedings which may be taken against the person.

Stopping
vehicles

81. (1) A police officer may require any person who is in control of a vehicle, vessel or aircraft to stop the vehicle, vessel or aircraft -

- (a) for enforcing a road transport law or any other law; or
- (b) to check whether the vehicle, vessel or aircraft of the person is complying with any road transport or any other law.

(2) A police officer may enter the vehicle, vessel or aircraft or part of the vehicle or vessel or aircraft to conduct a substance test on any person who is in control of the vehicle, vessel or aircraft.

Removal of
defective
vehicles

82. (1) A police officer may prohibit the use of any vehicle that the officer considers does not meet the required standards for the safety of the public, or does not comply with the requirements of any law.

(2) A prohibition under subsection (1) shall be in writing and shall -

- (a) state the conditions or defect which renders the vehicle not roadworthy or unsafe;
- (b) set out the conditions and actions necessary to repair or remedy the defect; and
- (c) remain in force until the vehicle has been certified as complying with all conditions, laws or regulations in respect to construction, use, equipment and environmental safety.

Arrest of
intoxicated
drivers

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

Prohibiting a
person driving

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

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

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

Investigation a
traffic incident

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

87. (1) A police officer may -

Inspection of
vehicles

- (a) enter any vehicle;
- (b) drive any vehicle or cause any vehicle to be driven; and
- (c) upon reasonable suspicion that any offence under this Act or any other Act may have been committed, order and require the owner of any vehicle to bring the vehicle to the police officer, for the purpose of examining and testing the vehicle with a view to ascertaining whether the provisions of this or any other Act are being complied with or with a view to ascertaining whether any vehicle is being used in contravention of this or any other Act.

(2) A police officer may require the holder of any vehicle licence or the owner or any person in possession of any vehicle which he has reasonable cause to believe is used on a road, to produce the vehicle at such reasonable time and place as he shall specify for the purpose of carrying out

any examination or test.

- 88.** (1) A police officer may arrest without warrant anyone -
- (a) who is about to commit an offence;
 - (b) who is in the act of committing an offence;
 - (c) whom the police officer has reasonable grounds for suspecting to be about to commit an offence;
 - (d) whom the police officer has reasonable grounds for suspecting to be committing an offence.
 - (e) anyone whom the police officer has reasonable grounds to suspect has committed an offence; or
 - (f) who has escaped from lawful custody.
- (2) The power of arrest conferred by subsection (1) is exercisable only if the police officer believes, on reasonable grounds that it necessary to arrest the person for any of the following reasons -
- (a) to enable the name, address and identity of the person to be ascertained;
 - (b) to prevent the person from suffering injury or causing injury to themselves or any other person;
 - (c) to prevent the person causing loss, damage or destruction to property;
 - (d) to prevent the person from committing another offence;
 - (e) to protect a child or other vulnerable person;
 - (f) to allow the prompt and effective investigation of the offence or of the conduct of the person; or

- (g) to prevent any prosecution for the offence being hindered by the disappearance of the person in question.

89. (1) If a police officer arrests an intoxicated person the police officer may take the person to -

Power of arrest
of intoxicated
persons

- (a) a police station or post; or
- (b) a safe place where the person can be released and can receive treatment or care whilst they recover from the intoxication.

(2) A police officer who releases a person pursuant to subsection (1)(b) must be satisfied that -

- (a) a person at the safe place is able to care for the intoxicated person; and
- (b) the intoxicated person does not pose a risk to themselves or another person at the safe place.

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

Power of arrest
with warrant

91. (1) A police officer may search and re-search a person if the person is -

Search of
person in
custody

- (a) lawfully arrested;
- (b) is in lawful custody for a charge of an offence that has not been decided;
- (c) is in custody under a sentence for a period of imprisonment;
- (d) is in custody on remand awaiting trial or sentence; or
- (e) is otherwise lawfully detained under any other law.

(2) A police officer may seize anything found during the search of the person -

- (a) that the police officer suspects, on reasonable grounds, might provide evidence of the commission of an offence;
- (b) that may endanger the safety of any person;
- (c) that may be used for an escape; or
- (d) that the police officer considers, on reasonable grounds, should be kept in safe custody while the person is in custody.

(3) If a police officer takes any property from an intoxicated person who is taken to a safe place, the police officer may give the property to an adult who is apparently in charge of, or residing at the safe place, for safe-keeping whilst the intoxicated person is at the place.

(4) If the safe place is not the home of the person from whom the property was taken, the person to whom the property is entrusted must return the property to the owner before the owner leaves the safe place.

Safeguards
for searches
of persons

92. (1) A police officer searching a person must -
- (a) ensure, as far as reasonably practicable, that the way in which the person is searched causes minimal embarrassment to the person;
 - (b) take reasonable care to protect the dignity of the person;
 - (c) unless an immediate and more thorough search of a person is necessary, restrict the search of the person in public to an examination of the outer clothing; and
 - (d) if a more thorough search of a person is necessary but does not have to be conducted immediately, conduct a more thorough search of the person out of public view.
- (2) Unless an immediate search is necessary, the person conducting the search shall be -
- (a) a police officer of the same sex as the person to be searched;

- (b) if there is no police officer of the same sex available to search the person, someone acting at the direction of a police officer and of the same sex as the person to be searched; or
- (c) a medical practitioner acting at the direction of a police officer.

93. (1) A police officer may stop, detain and search a person without warrant if the police officer suspects on reasonable grounds that the person has in his or her possession an item that -

Search of
persons without
warrant

- (a) may be a firearm, weapon, explosive or dangerous item that the person may not lawfully possess;
- (b) may be a dangerous drug;
- (c) may be stolen property;
- (d) may have been used, is being used, is intended to be used, or is primarily designed to be used for committing a criminal offence.
- (e) may threaten the safety and security of a correctional centre, police cell or any place where persons are lawfully detained;
- (f) may be something that the person intends to use to cause harm to himself or herself or to any other person; or
- (g) any article that is evidence of the commission of a criminal offence or an offence against customs or immigration law.

(2) A police officer may seize all or any part of a thing that is detected during a search under subsection (1) that apparently fits the description of any item listed in that subsection or that may provide evidence of the commission of an offence.

(3) A police officer who detains a person for a search must only detain the person for time reasonably necessary to conduct the search.

Searches of children or vulnerable person

94. A police officer shall not conduct a search of a person under the age of 18 or of a person who has impaired intellectual functioning except in the present of -

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

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

Information for arrested person

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

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

Person assisting an investigation

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

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

Power to collect identifying information

97. (1) Whenever a person is in lawful custody on a charge of having committed any offence, a police officer may take any particulars deemed necessary for identification of that person including -

- (a) a photograph of the person, including a photograph of any identifying marks, scars or tattoos; and
- (b) the person's fingerprints, palm prints, footprints, measurements, voice print, handwriting or description.