

## **Police Act of the Republic of Azerbaijan**

### **Chapter I. General Provisions**

#### **Section 1. Basic Terms**

The following terms shall be used in the Act:

Police is a centralized and united law enforcement body of the Executive power of the Republic of Azerbaijan.

Police officer is a public servant who occupies certain position in the police service and carries out the authorities defined in the present Act.

Detention is the short-term restriction of the liberty and holding of a person in places of temporary detention in cases and order provided by the legislation of the Republic of Azerbaijan;

Arrest is an administrative punishment applied in cases of commission of administrative wrongs, as well as, a type of coercive measure applied in cases and order provided in the Criminal Procedure Code of the Republic of Azerbaijan by temporary constraining of liberty and holding a person in the respective place of detention;

Private force is an ability to impose mechanical impact by means of the force generated by the human muscles;

Special means are truncheons, hand immobilising devices, tear gas of special destination, rubber bullets, water cannons, special devices forcible stopping of vehicles and the other special equipment provided by the legislation of the Republic of Azerbaijan.

#### **Section 2. Legislation on police**

Legislation concerning police shall comprise the Constitution of the Republic of Azerbaijan, the present Act, other statutes and statutory instruments, as well as the international agreements to which the Republic of Azerbaijan is a party.

#### **Section 3. Police objectives and main duties**

I. Police of the Republic of Azerbaijan shall have an objective of protecting of human lives, health, rights and freedoms, legal interests and property of private and juridical persons and the state from illegal actions.

II. Main duties of police are as follows:

- 1) To protect public order and preserve public security;
- 2) To undertake measures to prevent criminal offences and other wrongs;
- 3) To protect individuals, their human rights and freedoms, as well as their property illegal encroachments;
- 4) To provide security of public institutions and other premises in cases provided by in the legislation of the Republic of Azerbaijan;
- 5) To detect criminal offences;
- 6) To keep records and register criminal offences;
- 7) To expose and detain criminal offenders;
- 8) To conduct investigations and inquiries within its competence;
- 9) To impose administrative penalties and undertake other coercive measures, as well as to keep persons detained for administrative wrongs as provided by the legislation of the Republic of Azerbaijan;
- 10) To pursue detective-search activity in order provided by the legislation of the Republic of Azerbaijan;
- 11) To undertake researches in the field of crime detection and other spheres;
- 12) To pursue detective-search activity at the investigative detention places in order prescribed by the legislation of the Republic of Azerbaijan;
- 13) To conclude agreements with a view to guard property of private and legal persons from illegal encroachments;
- 14) To issue permissions and recipe records provided by the legislation of the Republic of Azerbaijan;
- 15) To supervise implementation of traffic rules and preserve traffic security;
- 16) To undertake necessary measures with the view to preserve traffic security;
- 17) To maintain united national system of registration of traffic and traffic security indexes.

III. Involvement of police in execution of duties not provided by the present ACT shall be prohibited.

#### **Section 4. Principles and Trends of Activity of Police**

I. Police shall operate based on the principles of respect to rights and freedoms of individuals and human beings, humanism and unified management.

II. The main trends of police activity are as follows:

- 1) Protection of public order and preservation of public security;
- 2) Prevention and detection of criminal offences and other wrongs;
- 3) Preservation of traffic security.

### **Section 5. Activity of Police in the Field of Protection of Human Rights and Freedoms**

I. In the course of performing of its duties, the police shall protect the rights and legal interests of all individuals specified by the Constitution of the Republic of Azerbaijan and treaties to which it is a party, irrespective race, nationality, religion, language, sex, origin, property, official position, beliefs, affiliation to political parties, trade unions any or other civil associations.

II. Police is proscribed from humiliating treating of individuals. Coercing of offenders or persons who are suspected of committing offences with a view to extract their testimonies or confessions, as well as threatening, torturing and subjecting to any other private and moral pressure shall be prohibited.

III. Police shall be allowed to undertake the measures provided by the present ACT against the rights and freedoms of individual only on the grounds and order prescribed by the legislation of the Republic of Azerbaijan.

IV. In case of any restriction of rights and freedom of an individual, the police officers shall explain the reasons and grounds for this restriction, as well as the rights and liabilities of the individual.

V. Police shall enable detained or arrested person to pursue their rights.

VI. Shall police officers violate rights, freedoms and legal interests of an individual, the police body shall be bound to undertake necessary steps to restore infringed rights, freedoms and legal interests of the individual, as well as to compensate the detriment inflicted.

VII. Compensation for the detriment inflicted as the result of illegal actions of police officers shall be paid in order provided by the legislation of the Republic of Azerbaijan.

### **Section 6. Openness of Police Activity**

I. Police shall provide information on its activities to the public bodies and the population in order provided by the legislation of the Republic of Azerbaijan.

II. Police shall be prohibited to disclose state, family, professional and commercial secrets; materials of the preliminary investigation or trial examination without adequate authorization of the prosecutor, investigator; as well as, information affecting personal lives of individuals, interests of private or legal persons, humiliating their dignity.

III. In case if information disseminated by police concerning private or legal persons happens to be contrary to real facts, the police shall refute this information through the same sources within a monthly period.

### **Section 7. Mandatory Implementation of Legal Demands of Police**

I. In the course of exercising authorities provided by the present ACT, the police officer shall act an agent of the Government.

II. All private and legal persons within the jurisdiction of the Republic of Azerbaijan shall be bound to implement legal demands of the police officer.

III. Failure to implement legal demand of the police officer, as well as resistance, violence and insults with regard to the police officer shall entail liability as provided by the legislation of the Republic of Azerbaijan.

### **Section 8. Inadmissibility of Interference with Police Activities**

Except for the cases involving persons authorized by legislation; restriction, influence or interference with the legal activities of police by shall not be allowed and shall entail liability as provided by the legislation of the Republic of Azerbaijan.

### **Section 9. Police Constituents and Subordination**

Issues of establishing a police service, its restructuring and dissolution, as well as management of police activity, appointment and dismissal of personnel shall be carried out in order enacted by the respective executive body of the Republic of Azerbaijan.

### **Section 10. Involvement of the Public Institutions, Local Self-Government Bodies and Individuals in Performance of the Police Duties**

I. Public institutions and local self-government bodies shall provide assistance to the police in the performance of its duties.

II. Any individual shall be entitled to aid police in the performance of its duties. Police shall not be entitled to force cooperate into cooperation, in the course of implementation of its duties.

III. Any individual who possesses information regarding pending preparation, pending commission or accomplishment of a criminal offence shall be bound to inform the police thereof. In cases provided by the Legislation of the Republic of Azerbaijan, failure to provide such information shall entail criminal prosecution.

IV. Officers of the Government Bodies, other than police service, who are involved in the protection of public order and security in order provided by the legislation of the Republic of Azerbaijan, shall be entrusted with the duties of police officers in this particular field. In such case, they shall enjoy the same legal, financial and social maintenance guarantees as provided for the police officers.

### **Section 11. International Relations of Police**

Cooperation of the police service of the Republic of Azerbaijan with their foreign police services and international police organizations shall be regulated by the international treaties to which the Republic of Azerbaijan is a party, treaties between the police bodies of foreign countries and the respective executive body of the Republic of Azerbaijan, as well as charters and statutes of the international police organizations, to which the Republic of Azerbaijan is a member.

### **Section 12. Supervision of Police Activity**

I. Implementation of the provisions of this ACT shall be subject to intra-corporate and extra corporate supervision.

II. Intra-corporate supervision shall be carried out exercised by the respective executive body and the extra corporate supervision shall be exercised by the other respective executive body within their competence delineated by the legislation of the Republic of Azerbaijan. Supervision of observation of the legislation by the police service shall rest with the Prosecutor's Office and courts.

## **Charter II. Authorities of police officer**

### **Section 13. General Authorities of the Police Officer**

I. The general authorities of the police officer are as follows:

- 1) To undertake urgent measures in order to prevent criminal offence and other wrongs of law pending preparation;
- 2) To undertake measures with the view to apprehend and bring to police headquarters the individuals who committed criminal offences and other wrongs;
- 3) To guard the crime scenes and identify witnesses of criminal offences;
- 4) to provide assistance and first aid to the victims of criminal offences, other wrongs, accidents, as well as to helpless persons and the persons in situations that pose danger their health and lives;
- 5) to ensure that rights and legal interests of detained and arrested persons are not breached;
- 6) to participate in rescue of persons and property in cases of natural disasters, accidents and state of emergency situations;
- 7) to comply with the conduct rules defined by the respective executive body in the course of exercising his/her authorities.

II. In the course of exercising his/her authorities, police officer shall be obliged to be open for cooperation, ready for joint actions and mutual assistance with his/her colleagues without special order or instructions.

III. While applying to any person, a police officer shall introduce himself/herself by quoting family name, forename, special rank and position and presenting his/her official ID.

IV. In the course of exercising his/her authorities, a police officer shall be directly and immediately to his/her superior.

V. A police officer shall be bound by the orders and instructions of his/her superior in the official hierarchy.

VI. A police officer, involved in the execution of any particular task, shall carry out orders and instructions of the superior police officer outside the scope of his/her direct subordination.

VII. In case if a police officer receive orders and instructions overtly in breach of legislation, s/he shall be guided by the legislation and inform the police commanders thereof.

VIII. Failure to carry out orders and instructions, which are overtly in breach of legislation, shall not entail liability. Police officers to carry out such orders and instructions shall be held responsible according to the legislation of the Republic of Azerbaijan.

### **Section 14. Duties of a Police Officer on Protection of Public Order and Preservation of Public Security**

Duties of a police officer on protection of public order and preservation of public security shall be as follows:

- 1) to ensure personal security for each and everyone;
- 2) to conduct proceedings regarding administrative wrongs assigned to their jurisdiction by the legislation of the Republic of Azerbaijan;
- 3) to execute resolutions of inquiry, investigation bodies and courts, in cases provided by the legislation of the Republic of Azerbaijan;
- 4) to keep in custody the persons detained, in order prescribed by legislation, to be delivered to the respective authorities;
- 5) to authorize obtaining, storing, carrying and transporting of objects specifically mentioned in the legislation of the Republic of Azerbaijan, such as firearms, ammunition, poisonous substances and other dangerous materials, as well as to supervise their traffic and to maintain a registrar of photocopy machines;
- 6) to ensure observation of state of emergency or martial law regime declared in certain areas or throughout the territory of the

Republic of Azerbaijan and to participate in quarantine measures in cases of epidemics and epizootics;

7) to protect public order in cases of mass events;

8) to provide storage and guarding of property in abeyance and treasures, as well as found documents, objects and other assets handed over to police until passed over to the respective public authorities or officials, or returned back to real owners;

9) to keep records and registration, in cases provided by the legislation of the Republic of Azerbaijan;

10) to participate in preventive actions aimed at suppression of juvenile delinquency and uncontrolledness in conjunction with other public authorities and non-governmental organizations;

11) to provide state protection for the persons involved in criminal proceedings;

12) to protect property of private and legal persons from illegal encroachments;

13) to execute other duties provided by the legislation of the Republic of Azerbaijan.

### **Section 15. Duties of a Police Officer in the Field of Prevention and Detection of Criminal Offences and Other Infringements of the Law**

Duties of a Police Officer in the Field of Prevention and Detection of Criminal Offences and Other Infringements of the Law shall be as follows:

1) to undertake necessary measures in order prevent criminal offences and other law infringements, discover criminal offences, identify offenders, find out and eliminate conditions leading to commitment of criminal offences;

2) to accept and register applications and information concerning criminal offences and other infringements of the laws, maintain their registrar and react to them in order provided by the legislation of the Republic of Azerbaijan;

3) to institute criminal proceedings, carry out inquiry and investigations on them in cases and order specified by the legislation of the Republic of Azerbaijan;

4) to conduct detective-search activity in order provided by the legislation of the Republic of Azerbaijan;

5) to execute resolutions of judges or prosecutors, as well as resolutions and written instructions of investigators or inquirers in cases specified in the above subsections 1-4.

### **Section 16. Duties of a Police Officer in the Field of Preservation of Traffic Security**

Duties of a police officer in the field of preservation of traffic security shall be as follows:

1) to keep in order traffic of vehicles and pedestrians, supervise observation of traffic rules by drivers and pedestrians, as well as preserve traffic security;

2) to undertake, within his competence, respective measures in the field of supervision of observing effective traffic safety rules, norms and standards in the course of road repairs, construction, planning, maintenance and servicing;

3) to supervise technical condition of vehicles;

4) to provide safety of traffic of all enterprises irrespective of the organizational-legal status, institutions, organizations and private persons; to provide state environmental control of observation of effective standards, norms and rules currently related to poisonous wastes of vehicles;

5) to conduct criminal inquiries into violations of traffic rules and road accidents and impose administrative penalties within his/her competence;

6) to hold examination of traffic rules and driving skills, as well as to issue driving licenses, which endow the right to drive a vehicle;

7) to maintain the register of motor-vehicles and trailers and to issue state license plates for them.

### **Section 17. General Rights of Police Officials**

In order to carry out the duties vested in him/her, a police officer shall be endowed with the following rights:

1) to demand any person to discontinue commission of a criminal offence and other wrongs, as well as actions posing danger to personal or public safety or producing conditions for that;

2) to check identity documents of persons suspected in committing criminal offences or administrative wrong;

3) to apprehend a person who committed or is suspected of commission of a criminal offence or other wrong, in order provided by the legislation;

4) to file motions of imperative consideration effect to public and civil bodies, enterprises, institutions, organizations, political parties, civil associations, trade unions and official with a view to eliminate the conditions for commission of criminal offence and other wrongs, in order provided by the legislation;

5) to access residential premises and other buildings, land plots, enterprises, institutions and organizations in cases provided by

the legislation;

6) to use vehicles of private and legal persons in order to reach accident scene, carry persons in need of emergent medical aid to the medical institutions and pursue criminal offenders (any damage caused to the vehicles in these cases shall be covered by the police), exception being the vehicles of foreign diplomatic missions, consulates and other representative offices, vehicles belonging to international organizations and vehicles of special destination;

7) to use helmets, shields, armored vests and other means of personal protection;

8) to apply private force, as well as to keep, carry and use special devices and firearms in cases provided by the present ACT.

### **Section 18. Rights of a Police Officer in the Field of Protection of Public Order and Preserving Public Security**

In order to carry out duties in the field of protection of public order and preserving public security, the following rights shall be vested in a police officer:

- 1) to enforce measures provided by the legislation of the Republic of Azerbaijan on administrative wrongs;
- 2) to restrict access and stay to territories and premises in case of danger for individuals or public, suspend the works, to restrict or prohibit traffic circulation;
- 3) to issue minutes regarding persons to have committed administrative wrong, carry out personal search, check belongings and detain persons in order and for the term provided by the legislation of the Republic of Azerbaijan;
- 4) to detain military servicemen suspected in commission of criminal offence or administrative wrong and deliver them to patrols, military commandants, commanders of military units or military commissariats;
- 5) to convoy intoxicated persons unable to move by themselves and potentially capable of causing danger to themselves and people nearby, to special medical institutions;
- 6) to take photos of persons detained for administrative offences, persons under administrative control, as well as the persons enlisted for police preventive supervision and to take fingerprints thereof in cases provided in the legislation;
- 7) to convoy vagrants and beggars to Provisional Custody and Distribution Units;
- 8) to detain mentally handicapped persons, alcoholics and drug-addicts evading from compulsory medical treatment prescribed by court because of their committing actions posing danger to public and convoy them to specialized medical institutions;
- 9) to detain juveniles evading from coercive education and to convoy them to specialized educational institutions, in cases in cases and order provided by the legislation;
- 10) to carry out inspections in places of storage and use of firearms, ammunition, poisonous substances and other dangerous materials and places of their distribution (except for military objects) and to provide written instructions of mandatory execution effect that concern violations of rules of storage and utilization of these subjects and substances, as well as to undertake other activities specified by the legislation of the Republic of Azerbaijan;
- 11) to seize documents having the features forgery on them, subjects, substances, materials and devices proscribed for civil use and owned without adequate permission, as well as collect property in abeyance and undertake necessary measures to solve this type of issues according to the legislation of the Republic of Azerbaijan.

### **Section 19. Rights of Police Officers in the Field of Prevention and Detection of Criminal Offences and other Wrongs**

Police officers shall be vested with the following rights in the Prevention and Detection of Criminal Offences and other Wrongs:

- 1) to review applications and information concerning criminal offences committed or pending preparation;
- 2) to obtain testimonies, explanations, information and documents from private and legal persons, except for the information constituting State secrets, fingerprints of suspects and to conduct other procedural measures provided in the legislation of the Republic of Azerbaijan in the course of detection of crime and conducting criminal investigation and inquiry,
- 3) to exercise other rights related to detective-search activity as provided by the legislation of the Republic of Azerbaijan;
- 4) to use mass media free of charge in order to identify conditions stipulating commission of criminal offence, the offender, victims and witnesses of the crime and to search offenders at large and missing persons.

### **Section 20. Rights of Police Officers in the Field of Preserving Traffic Safety**

Police officer shall be vested with the following rights in the field of preserving traffic safety:

- 1) to stop motor vehicles and check licenses of the driver related to his/her right to drive and consignment documents of the transported goods in cases and order provided by the legislation of the Republic of Azerbaijan;
- 2) to use of technical means in order to check whether the driver is intoxicated and to arrange his/her medical examination;
- 3) to disqualify persons driving vehicles and vehicles preventing their participation in traffic circulation in cases and order provided by the legislation of the Republic of Azerbaijan;
- 4) to obtain testimonies from the persons breaching traffic regulations, people involved in traffic accidents and witnesses thereof and, if necessary, to invite them to the police headquarters;

- 5) to impose administrative penalties for violations of traffic regulations and to lodge motions with courts to procure repealing of the right to drive;
- 6) to restrict or prohibit road repair and other works in cases of failure to comply with road traffic safety rules;
- 7) to restrict or prohibit traffic circulation in cases of natural disasters, as well as in the course of removing the danger;
- 8) to prohibit utilization of vehicles of which technical condition fails to meet the requirements;
- 9) to chase vehicle in case of possessing information to the effect that the person driving the vehicle and/or the passengers have committed criminal offence or are suspected of committing it, as well as in the case when utilization of the vehicle poses real danger of commission of crime.

### **Chapter III. Authorities Of Action Of Police Officer In Respect Of Restriction Of Individual Freedoms, Right To Privacy Of Premises And Using Of Private Force, Special Devices And Firearms**

#### **Section 21. Restriction of Rights to Freedom by Police**

I. Police officer shall be entitled to restrict right of individual to freedom by means of detention and arrest subject to the court warrant only in the following cases:

- 1) if the individual is suspected of committing criminal offence or administrative wrong or if s/he is arrested due to commission of criminal offence or administrative wrong;
- 2) if the juvenile concerned is subject to educatory supervision or if s/he is brought before authorized bodies;
- 3) preventing of dissemination of transmitted diseases, as well as to neutralizing of people with mental disorders, alcoholics, drug-addicts and vagrants;
- 4) preventing of illegal entrance into the country, deporting and extraditing of a person to another state;
- 5) ensuring attendance of court sessions by accused, defendants and witnesses, conducting of paternity tests, examining of mental condition and enforcing of implementation of liabilities with the exception of liabilities under contract;

II. Police official shall be entitled to detain or arrest a person only if the court (judge) warrant concerns the restriction of exactly the person in question.

III. Police officer shall be entitled to detain a person without a court (judge) warrant due to urgency only in the following cases:

- 1) shall the person be apprehended while committing or immediately after having committed criminal offence or administrative wrong;
- 2) shall the eye-witnesses of the event or victims of a criminal offence point at the person as the perpetrator of criminal offence or administrative wrong;
- 3) shall the traces related to criminal offence or administrative wrong be found on the suspect, his/her garments or other belongings as well as his/her property.

IV. Repealed subject to the 598-IIQD ACT of the Republic of Azerbaijan dated the 5th March 2004.

V. Police officer who is responsible for illegal detention or arrest of an individual shall be held liable under the legislation of the Republic of Azerbaijan.

#### **Section 22. Duration of Restriction of the Right to Freedom by the Police**

I. The terms of duration of restriction of the individual right to freedom in cases specified in Subsection 1 Section 21 of the present ACT shall be stipulated by statute only.

II. In cases specified in Subsection 3 Section 21 of the present ACT, the term of duration of restriction of the individual rights to freedom shall be stipulated by the legislation of the Republic of Azerbaijan related to administrative wrongs in cases of commission of administrative offences, and by the criminal procedure legislation of the Republic of Azerbaijan in cases of criminal offences respectively.

#### **Section 23. Duties of Police Officer in Respect of Restriction of Right of Freedom**

In the course of enforcing his/her authority to restrict right of freedom, the police officer shall be bound as follows:

- 1) to use of safe methods and means in the course of detaining or arresting a person, except for the cases of necessary self-defense and last resort;
- 2) to introduce himself/herself and show official identity document to the detained or arrested person;
- 3) to inform of the grounds of detention immediately after detention, as well as to explain the right of rights not to testify against oneself or one's relatives and the right to use legal aid;
- 4) to convoy individuals arrested or detained to the police headquarters immediately, to make the record of the fact of arrest or detention according in order provided by the legislation of, the Republic of Azerbaijan; to introduce these records to the persons detained or arrested; and to have each fact of arrest or detention registered at the respective police department;

- 5) to inform close relatives of detained or arrested person, as well as to notify their employers or education institutions about his/her arrest studies upon his/her demand (in cases of elders, juveniles and persons who by the virtue of the mental disorder are not capable of doing that, the management of the detention place shall inform family members subject to his/her own initiative)
- 6) to ensure the right of using legal aid of the detained or arrested person upon his/her demand, as well as in case of mandatory participation of the legal counselor;
- 7) to treat the detainee or arrestee with due respect to his person and dignity, with particular attention being paid to women, minors, elders, ill and disabled persons;
- 8) Repealed subject to the 598-IIQD ACT of the Republic of Azerbaijan dated the 5th March 2004;
- 9) Repealed subject to the 598-IIQD ACT of the Republic of Azerbaijan dated the 5th March 2004;
- 10) to release detained or arrested person subject to the court (judge) warrant, as well as, upon expiration of the terms of detention.

II. Police office shall ensure other rights of the detained or arrested person as provided by the legislation of the Republic of Azerbaijan.

#### **Section 24. Restriction of the Right of Privacy of Premises by the Police**

I. Police officer shall be entitled to restrict the right of privacy of individual's dwelling premises and to access individual residential premises against the will of residents only in the following cases:

- 1) subject to the warrant issued by judge;
- 2) in the course of implementation of urgent measures with a view to guarantee rights and freedoms of other persons; to protect public order and preserve public safety; and to prevent and eliminate consequences of grave criminal offences, natural disasters, accidents, epidemics and epizootics;

II. Police officer shall be entitled to access premises against the will of the residents without warrant of judge only if s/he possesses precise information about or has reasonable grounds to believe in the existence of one of the following grounds:

- 1) the premise concerned to be the venue of pending perpetration for grave crime against person or especially serious crime against State;
- 2) the premise concerned to be the location where the perpetrator of a criminal offence or a fugitive from a detention place or penitentiary institution is hiding;
- 3) in the course of chasing perpetrator "hot on the heels" (in proximity);
- 4) the premise concerned to be is the location of a dead body;
- 5) the premise concerned to be the location of real danger for human life and health, as well as immoral behavior entailing criminal liability subject to the legislation of the Republic of Azerbaijan.

III. Restriction of the privacy of premises without court (judge) warrant or grounds specified in Subsection 1 and 2 of this section not being present in the case, under the pretext of expediency, temporary necessity and so on shall be prohibited.

IV. Repealed subject to the 598-IIQD ACT of the Republic of Azerbaijan dated the 5th March 2004.

V. Provisions of the present Section shall also be applicable to non-residential premises, construction sites and land plots of private and legal persons, as well as to other objects specified by the legislation of the Republic of Azerbaijan.

VI. Police officer who is responsible for violation of the illegal restriction of the right of privacy of premises shall be held liable under the legislation of the Republic of Azerbaijan

#### **Section 25. Duties of Police Officer in Respect of Restriction of Rights to Privacy of Premises**

I. In the course of enforcing his/her authorities restricting the right to privacy of premises, the police officer shall be bound as follows:

- 1) not to enter residential premises against the residents' will in default of grounds specified in Section 24 of the present ACT;
- 2) to inform about grounds for entering residential premises to the residents or other temporary residents in advance;
- 3) to explain to the residents their rights in connection with his/her entering their premises and in case the permission to enter is not granted by the residents to advise them as to the illegality of their actions of obstruction;
- 4) to use safe methods and means in the course of entering the premises against the will of the resident, respect their dignity and honor, lives, health and property and avoid unnecessary damage, except for the cases of necessary self-defense and last resort;
- 5) Repealed subject to the 598-IIQD ACT of the Republic of Azerbaijan dated the 5th March 2004;
- 6) to report to the judge within 24 hours in written regarding any instance of entering residential premises against the residents will;
- 7) to refrain from disclosing any information pertaining to the personal and family life of residents, obtained as the result of

entering residential premises.

II. Police officer shall carry out other duties in respect of restricting right to privacy of premise as provided by the legislation of the Republic of Azerbaijan.

### **Section 26. Use of Private Force, Special Means and Firearms by the Police**

I. Police officer shall be entitled to use private force in respect of any person failing to implement his legal demands only in the following cases:

- 1) prevention of crimes committed or pending preparation;
- 2) detention of a person who committed administrative wrong or crime;
- 3) dealing with violation of legislation combined with use of violence.

II. Police officer shall be entitled to use special means in respect of any person failing to implement his legal demands only in the following cases:

- 1) assault or any other violent action posing real danger to human life and health;
- 2) riots and mass public disturbances;
- 3) release of hostages or captured buildings, construction sites, facilities, land plots and motor vehicles;
- 4) repulse of group assaults upon residential buildings, offices, enterprises etc.
- 5) detention of perpetrators of person to have committed criminal offence against personal human life and health, property shall the latter show resistance or attempting to abscond;
- 6) armed resistance by detainees or sufficient grounds to believe in the imminence of such resistance;
- 7) prevention of escape by person suspected of committing criminal offence and arrest warrants issued in his regard or by person sentenced to imprisonment, including life imprisonment, as well as, prevention of attempts of their illegal release by other persons;
- 8) reasonable grounds to believe that the person to have committed serious criminal offence is to show resistance or attempt to escape while being convoyed to police headquarters;
- 9) in the course of convoying arrested person;
- 10) reasonable grounds to believe that the person to have committed offence posing danger to the public is to inflict damage to himself/herself or persons nearby;
- 11) forcing the person to have committed offence posing danger to the public out of premises or vehicle in the course of his/her detention;
- 12) imminent danger to human lives and health or to oneself caused by persons driving motor vehicles and failing to obey overt demand of police to stop the vehicle, should the other means of stoppage (such as special stopping devices) be unavailable at the moment.

III. Except for cases foreseen in Subsection 2 and 12, police officer shall be entitled to use dogs in all cases specified in Section II of the present ACT.

IV. Police officer shall be entitled to use firearms in order provided by the legislation of the Republic in the following cases:

- 1) in cases mentioned in paragraphs 1,2,3 and 4 of Subsection II of the present Section should the offences posing danger to public have been committed by using firearms;
- 2) in cases mentioned in paragraph 7 of Subsection II of the present Section;
- 3) encroachments upon human lives and failure in using forced preventive means;
- 4) armed resistance in the course of detention;
- 5) prevention of criminal offences posing an imminent danger to human life;
- 6) prevention of attempt to procure possession of firearms by other person;
- 7) killing an animal attacking human beings or posing danger to them.

V. Apart from the cases mentioned in Subsection IV of the present Section, firearms might be used also as means of signaling danger or warning, as well as calling for assistance.

VI. According to the requirements of the present ACT, use of private force, special means and firearms in cases of extreme necessity shall be adequate to the imminence of danger. Deprivation of life as a result of the use of private force, special means and firearms in cases of extreme necessity shall not be considered as a violation of the right to live.

VII. Official inspection should be conducted by the competent police body on each and every occasion of the use of private force, special

means and firearms with a view to produce an opinion on the lawfulness of the use of private force, special means and firearms.

VIII. Special means capable of producing a destructive effect on the anatomical integrity of human being in the form of various bodily injuries or the ones of that generate unnecessarily high risk of danger shall be prohibited for police use.

IX. Police officials shall be held responsible for illegal application of private force, special means and firearms according to the legislation of the Republic of Azerbaijan.

### **Section 27. Duties of the Police officer in the in Respect of Application of Private Force, Special Means and Firearms**

I. In the course of implementation of his/her duties in respect of the use of private force, special means and firearms, police officer shall be bound as follows:

- 1) to use private force, special means and firearms only as a means of last resort and for purposes of necessary defense, should all other means of influence fail to procure desired outcome, as well as to the degree proportionate to the gravity of the offence and personality of the offender;
- 2) not to use private force, special means and firearms against women, juveniles or persons who accompany minors, have obvious signs of disability, are privately and mental handicapped, as well as in crowded places with high probabilities of harm to by-passers, except for the cases of assault by means of firearms and armed resistance;
- 3) to use firearms exclusively for prevention of an imminent danger;
- 4) to make an oral warning or precautionary shot prior to using firearms (in case of sudden, i.e. totally unexpected attack, as well as in cases if the attacker uses firearms, motor transportation vehicle, dangerous predatory, wild or other animal, police officers shall be entitled to use firearms without warning);
- 5) to provide medical aid to the ones persons who sustain injury as a result of the use of private force, special means and firearms;
- 6) to strive keeping unaffected the area where firearms have been used;
- 7) to provide information immediately, in written, about each case of the use of private force, special means and firearms to their headquarters or to the police office of the local area where firearms have been used;
- 8) to submit to the respective prosecutor a written statement concerning the use of private force, special means and firearms within 24 hours.

## **Chapter IV. Foundation Of Service In Police**

### **Section 28. Recruitment of police officers**

I. Based on the principle of voluntariness, as well as personal and professional qualities, citizens of the Republic Azerbaijan who are not younger than 20; are in good health condition and have education which are sufficient to perform duties vested with police, served in the military or have graduated from police educational institution shall be entitled to recruitment for service in police.

II. Physical fitness and health of the recruits to the police service shall be examined in order prescribed by the appropriate executive body of the Republic of Azerbaijan.

III. Recruits to the police service shall sit a training course in order prescribed by the respective executive body.

IV. Persons who have dual citizenship, have liabilities to other states, are representatives of clergy, have effective court decision recognizing their limited or complete lack of capacity to work issued in their regard, have previous criminal convictions, have criminal proceedings against them cancelled on the grounds other than acquittal, have been sacked from police service or service in other law-enforcement body for committing serious faults, occupying themselves in activities incompatible with service in police, being unfit for police service, conducting himself/herself in a fashion discrediting the good name of a policeman; shall not be entitled to recruitment to service in police.

V. Other employees of the Internal Affairs bodies and involved protecting public order and preserving public security shall be considered police officers for this purpose.

VI. Recruits to the police service as students of police education institutions shall be removed from military enlistment records and be entered into records of the respective executive body of the Republic of Azerbaijan.

VII. Each police official shall be issued an official identity document certified by the adequate executive body of the Republic of Azerbaijan.

VIII. Recruitment and service the police shall be regulated by the Charter enacted by the Act of the Republic of Azerbaijan.

### **Section 29. Oath of Police Officials**

I. Police officer shall take an oath at the official ceremony with the personnel present, standing next to the National Flag of the Republic of Azerbaijan, before commencing his/her service, by uttering the following words:

"Right from the very first moment of my service in the police, I hereby swear to be guided by the constitution and the laws of the republic of Azerbaijan, to respect human rights and freedoms, to adhere strictly to the legality, to carry out my official duties with due diligence and honor, to be disciplined, to protect public order and to preserve public security courageously and shall it be necessary, not to be spare my life for these purposes".

II. Authorities of police officials shall become effective upon of taking the Oath.

III. Police officer shall sign the text of the Oath to be kept in his/her personal dossier.

### **Section 30. Special Ranks Of Police Officers**

I. Police officer shall have special rank conferred on him/her as specified by the legislation of the Republic of Azerbaijan.

II. (The Police) Service Regulation of Internal Affairs Bodies of the Republic of Azerbaijan shall regulate the hierarchy, as well as the rules and grounds of conferring the special ranks.

### **Section 31. Encouragement Of Police Officials**

I. Police officer shall be encouraged for exemplary performing of his/her duties and achieving high results in his/her service.

II. Police officers shall be entitled to the following encouragements:

- 1) Gratitude,
- 2) Bonus,
- 3) Expensive present,
- 4) Certificate of merit,
- 5) Badge of merit,
- 6) Personal weapon,
- 7) Pre-term conferral of higher special rank,
- 8) Award of a special rank, which is one step higher than the one allotted to the post occupied.

III. As a mode of encouragement, the effect of the previous disciplinary penalties might be terminated ahead of time.

IV. In addition to the abovementioned modes of encouragements, the students of the police education institutions shall be entitled to additional increase of scholarship and pre-term granting of a permission to leave the location of the institution.

V. Police officers shall be entitled to the nomination for the State Awards of the Republic of Azerbaijan.

### **Section 32. Activities Incompatible With Service In The Police**

I. Police officer shall not hold any elected or appointed office, nor be engaged in any form of entrepreneurship, commerce and other paid activity, except for pedagogical, scientific and creative activity; nor to receive any other remuneration in addition to their wages apart from profit gain as a result of their scientific, pedagogical and creative activity.

II. Police officer shall not be involved of political activity, nor shall s/he be a member of a political party.

### **Section 33. Accountability of Police Officials**

I. Police officer shall be subject to disciplinary liability on the following grounds:

- 1) illegal actions in the course of service,
- 2) breach of service and executive discipline,
- 3) actions discrediting good name of a policeman.

II. The following disciplinary penalties can be imposed upon police officials:

- 1) Reproof,
- 2) Reprimand,
- 3) Strong Reprimand,
- 4) Warning for being totally incompetent,
- 5) Demotion to inferior position,
- 6) One step decrease of the special rank,
- 7) Dismissal from service.

III. In addition to the modes of disciplinary liability mentioned in Subsection 2, the students of the police education institutions shall be subject to extraordinary duty and dismissal from school.

IV. Disciplinary liability of the police officer shall be imposed in order provided by the Charter endorsed by the respective executive body of the Republic of Azerbaijan.

V. Police officer shall be called to liability for illegal actions according to the legislation of the Republic of Azerbaijan.

## **Section 34. Dismissal Of Police Officer From Service**

I. Police officers shall be dismissed from service in the following cases:

- 1) subject to one's written application for resignation,
- 2) in case of one's refusal to take the Oath,
- 3) if the court has passed a guilty verdict for committing a crime or compulsory medical treatment in one's regard,
- 4) for involvement in activities incompatible with police service,
- 5) upon reaching of age limit allowed for being in service,
- 6) due to health condition, including inability to perform duties due to health problems for the term exceeding 4 months as certified by conclusion of the Special Medical Commission,
- 7) if the Attestation Commission has issued an opinion of total professional incompetence,
- 8) adoption of citizenship of another state, quitting citizenship of the Republic of Azerbaijan and assuming liabilities to another state,
- 9) commission of actions discrediting good name of a policeman,
- 10) commission of serious breach of discipline within a year after getting a disciplinary penalty,
- 11) staff redundancy,
- 12) if the court has passed a decision to the effect of recognizing the one completely or partially disable (incapacity to work,
- 13) transfer to service in other law-enforcement body,

II. Police officer shall be entitled to appeal against dismissal to superior offices and court.

III. Dismissal of the police officer from service shall be carried out in order provided by the Charter endorsed by the respective executive body of the Republic of Azerbaijan.

IV. Police officers who are dead, have been killed and recognized by court decision as dead or missing persons shall be struck out of internal affairs bodies' employees.

## **Chapter V. Financial And Social Maintenance Of Police Officer**

### **Section 35. Wage of Police Officer**

I. Wage of the police officer shall comprise the main salary based on service record, official post and special rank and surplus payments provided by legislation for days-off, holidays, night-time and overtime works. Police officer shall be entitled to extra payments, bonuses and other surpluses for unfavorable work conditions.

II. The rates and allowance of main salary, surplus payments, compensations, allowances and other payments to police officials shall be fixed by the respective executive body of the Republic of Azerbaijan.

### **Section 36. Pensions and Social Maintenance of Police Officer**

The rates and allowance of pensions and social maintenance of police officer shall be fixed by the legislation of the Republic of Azerbaijan.

### **Section 37. State Insurance and Compensation of Damage To The Police Officer**

I. Life and health of the police officer shall be insured at the cost of the State Budget.

II. The respective executive body of the Republic of Azerbaijan shall fix the order and amount of compensation to be paid to the police officer or his family for dying in the line of duty, sustaining injury and damage to his/her health.

III. Damage inflicted to the property of the police officer in the course of service shall be compensated at the expense of the State Budget.

### **Section 38. Other Guarantees for Police Officials**

I. The respective executive body of the Republic of Azerbaijan shall undertake necessary measures in order to provide the accommodation requirements of police officers who are in need for improvement of dwelling conditions and those who have been transferred to serve in another area.

II. Police officer who has no dwelling premise due to transfer to another area and has to pay rent charges shall be entitled to receive allowance of which rate shall be fixed by the respective executive body of the Republic of Azerbaijan.

III. The respective executive body of the Republic of Azerbaijan shall fix the order and amount of transfer fees and one-off compensation to the police officer transferred to serve in another area.

IV. Police officers, in the course of performing their duties, shall be entitled to use all means of public transport (excluding taxi and inter-city transport) free of charge within the Republic of Azerbaijan.

V. Police officer seconded to a mission shall be entitled to pass the queue in order obtain tickets for all means of transport and accommodation in hotels.

VI. Repealed subject to the 214-IIQD ACT of the Republic of Azerbaijan dated the 15th November 2001.

VII. Police officers and members of their families shall be entitled to the public medical aid.

VIII. Police officer and members of his/her family shall have the their personal and proprietary safety being guaranteed against injury and damage in order provided by the legislation of the Republic of Azerbaijan due to performing of police duty.

IX. Police officer shall be entitled to the vacation in order provided by the legislation of the Republic of Azerbaijan.

X. Police officers who leave their office for supreme executive or legislative authorities, as well as the authorities in charge for legislative and organizational management of the law-enforcement services, shall retain all guarantees foreseen for police officials, except for the financial ones.

## **Chapter VI. Financial And Logistical Support**

### **Section 39. Financial Support of the Police**

I. Police activity shall be funded from the state budget on the contractual basis as specified in the legislation, as well as other sources such as public and non-public funds.

II. The respective executive body shall determine the number of staff and amount of expenses allowed to police officers to be funded from the state budget.

### **Section 40. Logistical Support of the Police**

I. The respective executive body shall determine the order and norms of logistical support of the police activity.

II. Police service of the Republic of Azerbaijan shall be provided, based on the respective norms, with special uniform, firearms, ammunition, special devices, technical means, premises and vehicles.

III. The respective executive body shall approve the samples of police uniform.

IV. Premises for police services shall be gratuitously provided by the respective executive agencies and transport police services shall be provided by railroad, aviation and marine transport agencies respectively.

### **Miscellaneous provisions**

I. The present ACT shall become effective as of the date of its publication.

II. Judicial authorities in respect of restricting rights to freedom and to privacy of premises specified in the Subsection I-III of Section 21, Section 22, paragraphs 8-10 of Section 23, paragraph 1 Subsection III and Subsections II-IV of Section 24, paragraph 6 of Section 25 shall become effective new Criminal Procedure Code's becoming effective and after appointment of judges according to Courts and Judges ACT of the Republic of Azerbaijan.

III. Until new authorities of judges in respect of restricting rights to freedom and to privacy of premises become effective the respective authorities shall emanate from existing criminal procedure legislation.

IV. Provisions of the paragraphs 5 and 7 of Section 18 shall be implemented in the areas with no special medical centers and Provisional Custody & Distribution Units only establishment thereof. Until these institutions and units are established the areas in default shall be subject to the order provided by the effective legislation.

Heydar Aliyev

President of the Republic of Azerbaijan

Done in Baku on the 28th October 1999

Ref. 727-IQ

The text of this ACT has been subject to amendments and supplements according to ACTs of the Republic of Azerbaijan #207-IIQD of the 12th October 2001, #214-IIQD of the 15th November 2001, #272-IIQD of the 15th March 2002, 333-IIQD of the 24th May 2002, #408-IIQD of the 24th December 2002, #484-IIQD of the 20th June 2003, #568-IIQD of the 30 December 2003, #598-IIQD of the 5th March 2004.

## **Police ACT (Implementation) Decree**

### **of the President of the Republic of Azerbaijan**

In order to facilitate the implementation of the Police ACT of the Republic of Azerbaijan due to its becoming effective, I hereby decree:

1. Cabinet of Ministers of the Republic of Azerbaijan shall be commissioned with carrying out of the following tasks within two-month period:

- to submit to the President of the Republic of Azerbaijan proposals in respect of harmonizing the effective legislation with the Police ACT;

- to harmonize the statutory instruments of the Cabinet of Ministers and other central executive bodies with this ACT and inform the President of the Republic of Azerbaijan about the results;
- elaborate and present to the President of the Republic of Azerbaijan the Bill determining the liability for breach of Police ACT of the Republic of Azerbaijan;
- to submit to the President of the Republic of Azerbaijan proposals related to the implementation of Section 9 of this Act;
- to determine the order of examining private fitness and health of the recruits provided by subsection II of Section 28 of the ACT and inform the President of the Republic of Azerbaijan about the results;
- to determine the rules of fixing the rates and allowance of main salary, surplus payments, compensations, allowances and other payments to police officials provided by subsection II Section 36 and inform the President of the Republic of Azerbaijan about the results;
- to determine the rules of fixing the order and amount of compensation to be paid to the police officer or his family for dying in the line of duty, sustaining injury and damage to his/her health provided by subsection II Section 37 and inform the President of the Republic of Azerbaijan about the results;
- to determine the rules of fixing amount of allowance to police officer who has no dwelling premise due to transfer to another area and has to pay rent charges as provided by subsection II Section 38 and inform the President of the Republic of Azerbaijan about the results;
- to determine the rules of fixing the order and amount of transfer fees and one-off compensation to the police officer transferred to serve in another area as provided by subsection III Section 38 and inform the President of the Republic of Azerbaijan about the results;
- to determine the order and norms of logistical support of the police activity as provided by subsection 1 Section 40 and inform the President of the Republic of Azerbaijan about the results;
- to resolve other issues emanating from the Police ACT of the Republic of Azerbaijan within its competence.

2. It shall be determined that

- Ministry of Internal Affairs of the Republic of Azerbaijan shall exercise the authorities of respective executive body specified in Section 11, after words "intra-corporate supervision" in subsection II of Section 12, paragraph 7 subsection I Section 13 and subsection III, VI and VII of Section 28;
- President of the Republic of Azerbaijan shall exercise the authorities of respective executive body specified after words "intra-corporate supervision" in subsection II of Section 12 and subsection III of Section 40;
- Cabinet of Ministers of the Republic of Azerbaijan shall exercise the authorities of respective executive body specified in subsection II of Section 28, subsection II of Section 35, subsection II of Section 37, subsection II and III of Section 38, subsection II of Section 39 and subsection I of Section 40;
- Ministry of Internal Affairs of the Republic of Azerbaijan shall exercise the authorities of respective executive body specified in subsection I of Section 38;
- Cabinet of Ministers of the Republic of Azerbaijan and local executive offices shall exercise the authorities of respective executive body specified in subsection IV of Section 40.

Heydar Aliyev

President of the Republic of Azerbaijan

Done in Baku on the 11th November 1999

Ref. 205

**DECREE of the President of the Republic of Azerbaijan**

**on the amendments and supplements to the Police ACT (Implementation) Decree of the President of the Republic of Azerbaijan ref. 205 dated 11th November 1999**

In order to facilitate the implementation of the Police ACT of the Republic of Azerbaijan due to its becoming effective, I hereby decree:

I. Police ACT (Implementation) Decree of the President of the Republic of Azerbaijan ref. 205 dated 11th November 1999 shall be subject to the following amendments and supplements:

1. part 6 of paragraph 1 be eliminated and parts 7-12 shall be considered parts 6-11 accordingly;
2. the words "Section 28" in part 2 of paragraph shall be supplemented with proceeding "II";
3. the words "subsection II Section 28" shall be eliminated in part 4 paragraph 2.

II. This ACT shall become effective as of date of its publication.

Heydar Aliyev

President of the Republic of Azerbaijan

Done in Baku on the 13th December 2002

Ref. 824