

**REPUBLIC OF VANUATU**

**POLICE (AMENDMENT)  
ACT NO. 22 OF 2010**

**Arrangement of Sections**

**1 Amendment**

**2 Commencement**

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*Assent: 17/01/2011  
Commencement: 17/01/2011*

**POLICE (AMENDMENT)  
ACT NO. 22 OF 2010**

An Act to amend the Police Act [CAP 105].

Be it enacted by the President and Parliament as follows:

**1 Amendment**

The Police Act [CAP 105] is amended as set out in the Schedule.

**2 Commencement**

This Act commences on the day on which it is published in the Gazette.

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**SCHEDULE**

**AMENDMENTS OF THE POLICE ACT [CAP 105]**

**1 Section 1**

Insert the following definitions in their correct alphabetical positions:

““Deputy Commissioner” means a Deputy Commissioner of Police appointed under section 7B;

“Force Orders” means orders made by the Commissioner under paragraph 6(1)(b);

“Office” means the Force Legal Office established under section 22E;

“Special Constable” means a person approved by the Commissioner under subsection 22B(2) to assist the Force in the performance of its function;”

## **2 Section 1 (definition of Commission)**

Delete “9(1)”, substitute “9”

## **3 Section 1 (definition of Commissioner)**

Delete “10”, substitute “7A”

## **4 Section 1 (definition of Constable)**

Repeal the definition, substitute

“Constable” means a member with the lowest rank in the Force;

## **5 Section 1 (definition of Force)**

After “Act”, insert “and includes its policing, maritime and mobile elements;”

## **6 Section 1 (definition of Minister)**

After “his”, insert “or her”

## **7 After section 1**

Insert

### **“1A. Objects of the Act**

The principle objects of this Act are:

- (a) to establish a Vanuatu Police Force that is efficient and effective in serving the Government and the citizens of the Republic of Vanuatu according to Law;
- (b) to determine the powers and responsibilities of the Commissioner as the most senior member of the Force;
- (c) to establish the Police Service Commission and to ensure that the Commission is able to assist with the functions of the Force and its members, including the Commissioner ;
- (d) to provide a legal framework for the appointment, powers, duties and discipline of members of the Force;
- (e) to establish the rights and obligations of members of the Force.

### **1B. Interference with Commission prohibited**

(1) Subject to this Act, the Commission is not subject to the direction or control of any other person or body in relation to the exercise of its powers and functions under this Act.

(2) In exercising its powers and functions under this Act, the Commission must have regard to the policies of the Government as communicated in writing to the Commission from time to time by the Minister.

### **1C. Government to provide adequate funding**

The Government is to provide a sufficient budget to the Force and the Commission to perform their functions efficiently, effectively and properly.”

## **8 Section 3**

Repeal the section, substitute

### **“3. Composition of the Force**

The Force consists of:

- (a) the Commissioner of Police; and
- (b) any Deputy Commissioner of Police; and
- (c) members.”

## **9 Subsection 4(1)**

After “crime”, insert “, and to work closely with the community in this respect”

## **10 Paragraph 4(2)(a)**

After “of” (second occurring), insert “law and”

## **11 At the end of paragraphs 4(2)(a), (b) and (c)**

Add “and”

## **12 Paragraph 4(2)(e)**

Repeal the paragraph, substitute

“(e) the performance of general policing duties as well as boarder, maritime and national security operations; and

(f) such other duties as may be expressly provided for by law; and

(g) anything which is incidental or conducive to the performance of any of the above functions.”

**13 Sections 34, 55, 60 and 82**

After “him” (wherever occurring), insert “or her”

**14 Subsections 4(3), 25(1), 31(3), 32A(1), 32A(2), 32A(3), 32A(4), 35(1), 35(3), 38(2), 42(2), 42(3), 62(1), 74(2) and 77(1)**

After “him” (wherever occurring), insert “or her”

**15 Sections 18, 32, 34, 56, 60 and 61**

After “he” (wherever occurring), insert “or she”

**16 Subsections 5(1), 11(2), 13(2), 14(2), 15(2), 16(2), 19(2), 31(4), 32A(1), 33(1), 35(1), 35(3), 38(1), 38(2), 41(1), 41(2), 42(3), 45(1), 45(2), 59(1), 62(2), 64(2), 70(2) and 77(1)**

After “he” (wherever occurring), insert “or she”

**17 Paragraphs 5(1)(b), 6(1)(a), 6(1)(b), 31(1)(a), 31(1)(c), 64(1)(a), 64(1)(b), 64(3)(a), 64(3)(b), 70(1)(a), 70(1)(b), 70(3)(a) and 70(3)(b)**

After “he” (wherever occurring), insert “or she”

**18 Sections 30, 32, 47, 55, 56, 60, 61 and 78**

After “his” (wherever occurring), insert “or her”

**19 Subsections 7(3), 13(2), 15(2), 16(2), 19(2), 26(1), 27(1), 32A(4), 35(1), 37(4), 38(1), 38(2), 42(2), 42(3), 43(1), 50(3), 64(2), 64(3), 70(2), 70(3), 72(2), 72(4), 74(1), 74(2), 75(3), 77(1) and 77(3)**

After “his” (wherever occurring), insert “or her”

**20 Paragraphs 7(2)(b), 20(a), 20(b), 46(b), 46(c), 48(1)(c), 50(1)(a), 50(1)(b) and 76(a)**

After “his” (wherever occurring), insert “or her”

**21 Subparagraphs 31(4)(b)(i), (ii) and (iii)**

After “his” (wherever occurring), insert “or her”

## **22 After PART 2**

Insert

### **“PART 2A. - COMMISSIONER AND DEPUTY COMMISSIONER**

#### **7A. Appointment of Commissioner**

(1) The President is to appoint a person in writing as the Commissioner of Police on the advice of the Commission after consultation with the Minister for a period of 5 years and the person is eligible for reappointment.

(2) The Commission must review the appointment made under subsection (1) after 3 years from the date on which the appointment is made.

(3) If the Commission is satisfied with the performance of the Commissioner after reviewing his or her appointment under subsection (2), the Commission must advise him or her and the Minister of its decision.

(4) The Commissioner is to continue in office for the remaining period of his or her term after being informed of the decision of the Commission.

(5) However, if the Commission is not satisfied with the performance of the Commissioner after reviewing his or her appointment under subsection (2), the Commission must after consultation with the Minister advise the President to terminate the appointment.

(6) The Commission must, prior to making a recommendation to the President for the appointment of a person as the Commissioner, make appropriate enquiries as to the applicant’s integrity and character.

(7) A person must not be appointed as the Commissioner under subsection (1) unless:

(a) the person is a citizen of Vanuatu; and

(b) has served in a senior position within the Force for a period of at least 7 years; and

(c) preferably has a tertiary qualification in the area of policing, military, management or Law.

(8) Subject to this Act and any other Act, the terms and conditions of appointment of the Commissioner, including salary, allowances and other entitlements are to be determined by the Commission after consultation with the Minister in a written form of agreement with the prior approval of the Council of Ministers.

(9) The Commissioner may resign from his or her office by giving 3 months notice in writing to the President.

(10) The Commissioner must give a copy of his or her resignation to the Minister and the Commission.

### **7B. Appointment of Deputy Commissioner**

(1) The Commission is to appoint in writing 3 persons as Deputy Commissioners on the recommendation of the Minister after consultation with the Commissioner for a period of 5 years and the persons are eligible for reappointment.

(2) The Commission must review the performance of a deputy Commissioner after 3 years from the date of the appointment of a Deputy Commissioner.

(3) If the Commission is satisfied with the performance of a Deputy Commissioner after reviewing his or her performance under subsection (2), the Commission must advise him or her and the Minister of its decision.

(4) A Deputy Commissioner is to continue in office for the remaining period of his or her term after being informed of the Commission's decision.

(5) However, if the Commission is not satisfied with the performance of a Deputy Commissioner after reviewing his or her appointment under subsection (2), the Commission must after consultation with the Minister terminate the appointment of a deputy Commissioner.

(6) The Minister must, prior to making a recommendation to the Commission under subsection (1), make appropriate enquiries on the applicant's integrity and character.

(7) A person must not be appointed as a Deputy Commissioner unless::

(a) the person is a citizen of Vanuatu; and

(b) has served in the Force for a period of not less than 10 years;  
and

(c) preferably has a tertiary qualification in the area of policing, military, management or Law.

(8) A Deputy Commissioner may resign from his or her office by giving 3 months notice in writing to the Commission.

(9) A Deputy Commissioner must give a copy of his or her resignation to the Minister.

(10) The Commission is after consultation with the Minister, to determine the terms and conditions of the appointment of a Deputy Commissioner.

### **7C. Acting Commissioner during vacancy**

(1) The President may, on the advice of the Commission after consultation with the Minister appoint a person in writing as Acting Commissioner for a period of not more than 6 months if the office of the Commissioner is vacant.

(2) To avoid doubt, the vacant position of the Commissioner must only be filled by a Deputy Commissioner.

(3) The President, acting on the advice of the Commission after consultation with the Minister, may at any time terminate an acting appointment made under subsection (1).

(4) An Acting Commissioner may exercise all the powers, functions and duties of the Commissioner.

(5) Subject to any other Act, the Minister after consultation with the Prime Minister is to determine the terms and conditions of the appointment of the Acting Commissioner including salary, allowances, and other entitlements in a written form of agreement entered into by the Minister and the Acting Commissioner.

(6) The Acting Commissioner may resign from his or her office by giving 1 month notice in writing to the President.

(7) An Acting Commissioner must give a copy of his or her resignation to the Minister and the Commission.

(8) The office of the Commissioner is taken to be vacant for the purpose of subsection (1) if:

(a) the President terminates the appointment of the Commissioner under subsection 7C(3); or

(b) a notice of resignation is given by the Commissioner under subsection 7C(6); or

(c) the person who occupies the office of the Commissioner has died.

#### **7D. Acting Deputy Commissioner during vacancy**

(1) The Commission may, after consultation with the Minister, appoint in writing an Acting Deputy Commissioner for a period of not more than 6 months if the Office of one of the Deputy Commissioners is vacant.

(2) To avoid doubt, the vacant position of the Deputy Commissioner must only be filled by one of the Assistant Commissioners.

(3) The Commission after consultation with the Minister may at any time terminate an acting appointment made under subsection (1).

(4) An Acting Deputy Commissioner may exercise all the powers, functions and duties of the Deputy Commissioner.

(5) The Acting Deputy Commissioner may resign from his or her office by giving 1 month notice in writing to the Commission.

(6) An Acting Deputy Commissioner must give a copy of his or her resignation to the Minister.

(7) The office of the Deputy Commissioner is taken to be vacant for the purpose of subsection (1) if:

(a) the Commission terminates the appointment of the Deputy Commissioner under 7D(3); or

(b) a notice of resignation is given by the Deputy Commissioner under subsection 7D(5); or

(c) the person who occupies the office of the Deputy Commissioner has died.

#### **7E. Absence of Commissioner or Deputy Commissioner**

(1) If the Commissioner or one of the Deputy Commissioners is absent from duty or from Vanuatu, or is for any other reason unable to perform the functions of the Commissioner or a Deputy Commissioner, the next senior member available:

(a) has and may exercise all the powers of the Commissioner or a Deputy Commissioner (except, in the case of the Commissioner,



has the power to make recommendations under subsection 10(1));  
and

(b) perform the functions and duties of the Commissioner or a Deputy Commissioner.

(2) For the purposes of subsection (1), the Commissioner is to determine the order of seniority of members.

(3) The Commission, after consultation with the Minister, is to determine the terms and conditions of appointment of the senior member who exercises the powers or performs the functions of the Commissioner.

(4) In this section, a reference to the “Commissioner” or a “Deputy Commissioner” includes a reference to the “Acting Commissioner” or an “Acting Deputy Commissioner.”

(5) At least one Deputy Commissioner must be on duty and remain in Vanuatu to exercise the powers and perform the functions of the Commissioner if he or she is overseas.

#### **7F. Termination of Appointment of the Commissioner**

(1) The President is to terminate the appointment of the Commissioner on the advice of the Commission after consultation with the Minister, if the Commissioner;

(a) is physically or mentally incapacitated; or

(b) is convicted of a criminal offence; or

(c) becomes bankrupt; or

(d) neglects his or her duty as the Commissioner; or

(e) is incompetent to perform the functions of the Commissioner.

(2) The Commission must before advising the President to terminate the appointment of the Commissioner, investigate the grounds for the proposed termination of the Commissioner under subsection (1).

(3) If the Commission is satisfied after investigating that the Commissioner has contravened paragraph 1(a), (b), (c), (d) or (e), the Commission must advise the President to terminate the appointment of the Commissioner.

#### **7G. Termination of Appointment of the Deputy Commissioner**

(1) The Commission is to terminate the appointment of the Deputy Commissioner if the Deputy Commissioner;

(a) is physically or mentally incapacitated; or

(b) is convicted of a criminal offence; or

(c) becomes bankrupt; or

(d) neglects his or her duty as the Deputy Commissioner; or

(e) is incompetent to perform his or her functions as the Deputy Commissioner.

(2) If the Commission terminates the appointment of the Deputy Commissioner, the Commission must:

(a) inform the Deputy Commissioner of its decision to terminate the appointment; and

(b) set out the reasons for the termination.

#### **7H. Delegation of powers of the Commissioner**

The Commissioner may, in writing, delegate to a Deputy Commissioner any of the Commissioner's powers, functions or duties under this Act except the power of delegation."

#### **23 PART 3 (heading and subheadings)**

Repeal the heading and subheadings, substitute

"PART 3 - POLICE SERVICE COMMISSION"

#### **24 Section 8**

Repeal the section.

#### **25 Section 9**

Repeal the section, substitute

#### **"9. Police Service Commission**

(1) The Police Service Commission is established.

(2) The Commission consists of 6 members appointed in writing by the President for 4 years.

(3) A member of the Commission is to be nominated for appointment by each of the following persons:

- (a) the Prime Minister; and
- (b) the Minister; and
- (c) the Chief Justice; and
- (d) the Minister of Justice; and
- (e) the Chairperson of the Public Service Commission; and
- (f) the Chairperson of the National Council of Chiefs.

(4) A member of the Commission is to hold office for the period of his or her appointment unless he or she is removed from, or otherwise vacates, office earlier.

#### **9A. Functions and powers of the Commission**

(1) The Commission has the following functions:

- (a) to advise the President in respect of the appointment of the Commissioner; and
- (b) to appoint the Deputy Commissioner on the recommendation of the Minister pursuant to subsection 7B(1) ; and
- (c) to appoint senior officers of the Force on the recommendation of the Commissioner; and
- (d) to appoint persons with relevant qualifications from outside the Force on the recommendation of the Commissioner; and
- (e) to assist the Force in relation to the resignation, compulsory retirement, discharge and dismissal of members; and
- (f) to determine whether a member has been involved in politics or joined a trade union in contravention of this Act; and
- (g) to advise the Commissioner on issues relating to the conduct or practices of the Force or its members; and
- (h) to hear and determine disciplinary matters relating to members; and

(i) to respond to all reasonable requests for assistance made by the Commissioner; and

(j) to be responsible to administer and manage the Human Resource of the Force; and

(k) to carry out such other functions as are conferred on the Commission by this Act or any other Act.

(2) Subject to this Act, the Commission is to act independently on matters affecting members of the Force including matters relating to the appointment, resignation, compulsory retirement, discharge, dismissal and discipline of members.

(3) The Commission must carry out its functions in a timely manner including in relation to the appointment, resignation, compulsory retirement, discharge, dismissal and discipline of members and must regularly advise any member affected on the progress of matters before the Commission.

(4) The Commission may make enquiries, or receive or prepare reports, as it thinks necessary, in relation to any matter before the Commission or such other matters as the Commissioner may reasonably request from the Commission.

(5) The Commission must comply with this Act in performing its functions.

(6) Subject to this Act, the Commission has the power to do all things necessary or convenient to be done for or in connection with the performance of its function.

### **9B. Chairperson and Deputy Chairperson of the Commission**

(1) The Minister is to appoint a Chairperson of the Commission after consultation with the Prime Minister from amongst the members of the Commission for a term of 4 years.

(2) The Chairperson is the chief executive officer of the Commission on a full time basis.

(3) The Chairperson holds office for the period of his or her appointment unless he or she is removed in writing by the Minister after consultation with the Prime Minister.

(4) If the Minister proposes to terminate the appointment of the Chairperson under subsection (4), the Minister must:

(a) inform the Chairperson of his or her decision to terminate the appointment ; and

(b) set out the reasons for the termination; and

(c) give him or her 7 days to respond to the proposed termination.

(5) The Minister is to terminate the appointment of the Chairperson if he or she is not satisfied with the response of the Chairperson given under paragraph (5)(c).

(6) The Commission is to elect the Deputy Chairperson of the Commission from amongst the members of the Commission.

### **9C. Disqualifications for appointment, resignation and removal**

(1) A person is disqualified for appointment as a member of the Commission if he or she:

(a) is a member of Parliament; or

(b) is a member of a Provincial Council; or

(c) is a member of a Municipal Council; or

(d) exercises a position of responsibility within a political party; or

(e) is a member of the Force; or

(f) is convicted of a criminal offence and sentenced to imprisonment including a suspended sentence.

(2) A person ceases to be a member of the Commission if the circumstances under subsection (1) arise that would disqualify him or her appointment from being a member.

(3) A member of the Commission may resign from his or her office by giving 1 month notice in writing of his or her intention to the President.

(4) Members hold office for the period of their appointment unless they are removed in writing by the Minister after consultation with the Prime Minister for reasons of:

(a) physical or mental incapacity; or

(b) conviction of a criminal offence ; or

(c) bankruptcy; or

(d) failure to attend 3 consecutive meetings without the permission of the Commission.

#### **9D. Functions of the Chairperson**

In addition to the duties and responsibilities of the Chairperson under this Act, the Chairperson has the following functions:

- (a) to call regular meetings of the Commission;
- (b) to preside over and chair meetings of the Commission;
- (c) to have a casting vote at a meeting if there is an equality of votes;
- (d) to be primarily responsible for the effective operation, management and performance of the Commission;
- (e) to ensure that appropriate written records of all meetings of the Commission are maintained, including the deliberations and decisions of the Commission;
- (f) to establish guidelines and procedures regarding meetings of the Commission including conflict of interest issues;
- (g) to provide an annual and financial report to the Minister;
- (h) to ensure that the Commission performs its functions in a timely manner including in relation to matters involving the appointment, resignation, compulsory retirement, discharge, dismissal and discipline of members, and to ensure that the Commissioner and members so affected are regularly advised on the progress of such matters before the Commission;
- (i) such other functions as are conferred on the Chairperson under this Act or any other Act.

#### **9E. Meetings of the Commission**

(1) The Commission may hold such meetings as are necessary for the proper performance of its functions under this Act.

(2) The Chairperson or in the absence of the Chairperson, the Deputy Chairperson:

- (a) may convene a meeting at any time; and

(b) must convene a meeting if he or she receives a written request signed by at least 2 members.

(3) At a meeting of the Commission, a quorum consists of 4 members present at a meeting, one of whom must be the Chairperson or in his or her absence, the Deputy Chairperson.

(4) A member or the Secretary of the Commission must keep and maintain appropriate written records in relation to all proceedings and decisions of the Commission.

(5) The Chairperson is to preside at all meetings of the Commission, however in his or her absence, the Deputy Chairperson is to preside at such meetings.

(6) A member of the Commission including the Chairperson must not preside over, deliberate, vote or otherwise be involved in any matter before the Commission in which he or she has a conflict of interest.

#### **9F. Remuneration of members of the Commission**

A member of the Commission including the Chairperson is entitled to such remuneration and allowances as may be determined in writing by the Minister.

#### **9G. Secretary to the Commission**

(1) The Commission after consultation with the Minister is to appoint a person as a secretary to the Commission.

(2) An appointment under subsection (1) must be based on merits.

(3) The Commission is to determine in writing the terms and conditions of appointment of the Secretary.

#### **9H. Functions of the secretary**

(1) The secretary of the Commission is to provide secretariat and administrative support to the Commission.

(2) In addition to subsection (1), the secretary has the following functions:

(a) attend and assist at meetings of the Commission, including maintaining and compiling records and minutes of the meetings as well as circulating agenda items and other relevant documents; and

(b) provide an administrative support role to the Commission as reasonably directed by the Chairperson of the Commission or any person acting as the Chairperson; and

(c) liaise with the Offices of the Commissioner, the Deputy Commissioner and the Minister as appropriate and required from time to time; and

(d) liaise with the Commissioner and the Deputy Commissioner as appropriate and required from time to time; and

(e) liaise with the relevant authorities within the Force in relation to matters involving the conduct and discipline of members; and

(f) take primary responsibility for the effective operation, management and performance of the Office of the Commission; and

(g) such other functions as may be conferred on the secretary by the Commission or by this Act or any other Act.

(2) The secretary and any other person appointed by the Commission, are subject to the direction of the Chairperson of the Commission.

#### **9I. Other staff**

The Commission may, after consultation with the Minister, appoint such other staff of the Commission as is required for the proper performance of its functions.”

### **26 After PART 3**

Insert

#### **“PART 3AA – APPOINTMENT, ENROLMENT, SERVICE AND DISCHARGE**

##### **Appointments – General Provisions”**

### **27 Section 10**

Repeal the section, substitute

#### **“10. Appointments**

(1) Senior Officers, other than the Commissioner and any Deputy Commissioner, are to be appointed by the Commission, acting on the recommendation of the Commissioner.



(2) Subordinate officers, including constables, are to be appointed by the Commissioner.

#### **10A. Terms and conditions of employment of members**

The terms and conditions of employment of the members are to be determined by the Commission.”

#### **28 Subsection 11(1)**

After “Force”, insert “as a member”

#### **29 Subsection 13(1)**

After “himself”, insert “or herself”

#### **30 Subsection 14(2)**

After “efficient”, insert “and effective”

#### **31 Section 17**

Repeal the section, substitute

#### **“17. Declaration**

Upon completion of the training provided for in subsection 16(1), a probationary constable must make and sign before a senior officer a declaration in the following form:

I swear that I will faithfully and diligently exercise and perform my powers and duties as a member of the Vanuatu Police Force to keep public order and enforce the law, and will obey lawful direction, instruction or order given to me by a superior officer in relation to all matters concerning the service to which I am appointed, with integrity and honesty and without fear and favour. So help me God.”

#### **32 At the end of paragraph 20(b)**

Delete “.”, substitute

“; and

(c) any written form of testing or examination that the Commissioner may consider necessary.”

### **33 Subsections 21(1) and 21(2)**

After “subordinate”, insert “officer”

### **34 After section 22**

Insert

#### **“Force secondment and special constables**

##### **22A. Secondment of persons to assist the Police**

(1) After consultation with the Commission, the Commissioner may, by written agreement with a body or organisation whether within or outside Vanuatu, including a foreign police force, arrange for a person who:

- (a) is employed by that body or organisation; and
- (b) has suitable qualifications and experience;

to assist the Force in the performance of its functions by performing the functions specified in the agreement.

(2) The terms and conditions, including any remuneration and allowances, applicable to a person performing functions under an agreement are those specified in the agreement.

##### **22B. Special Constables**

(1) The Special Constabulary is established, whose members are to be known as special constable or police reserve.

(2) The Commissioner may, subject to appropriate training, and character clearances as may be prescribed, appoint a person as a special constable.

(3) The primary role of a special constable is to assist the Force in carrying out its functions under section 4.

(4) In addition to subsection (3), a special constable is to assist the Force during all or any of the following:

- (a) unlawful assemblies or riots;
- (b) national emergencies or natural disasters;
- (c) festivals or public holidays;
- (d) disturbances of public peace and order.

(5) A special constable may assist a custom chief or a community leader to maintain law and order in the communities and to assist in such other ways as may be directed in writing by the Commissioner.

(6) The Commissioner is to assign, in writing, special constables to duty on a temporary basis when a special need arises or for such period as the Commissioner sees fit to assist the Force in carrying out its functions under this Act or any other Act.

(7) A special constable ceases, his or her assigned duties when the Commissioner directs in writing that the special need no longer exists.

(8) A special constable has the same powers, authorities and privileges of a member if he or she performs assigned duties under this Act.

(9) A special constable of equivalent rank to a member is to be paid the same remuneration or allowances at the rate payable to the member, and such remuneration or allowances are to be paid only when the special constable is on assigned duties.

(10) The Commission must keep a Register of special constables appointed under this section.

(11) An appointment of a special constable made under subsection (2) must be published in the Gazette.

## **22C. Secondment of members to other Police Forces and Organisation**

(1) The Commissioner may arrange for a member of the Force to be seconded for a special period:

(a) to the police force of a foreign country; or

(b) to the Vanuatu Public Service; or

(c) to any other body or organisation (including an international body or organisation) whether within or outside Vanuatu.

(2) The Commissioner may at any time terminate a secondment of the member after consultation with the entity to which the member was seconded.

(3) The Minister is to issue written guidelines on secondment of members by Order published in the Gazette.

## **22D. Effect of secondment on status as member**

(1) The secondment under section 22C of a member of the Force does not affect:

(a) the members status as a member of the Force; and

(b) the application of any provisions of this Act in relation to the member during the period of secondment.

(2) A member, remains subject to the same obligations and liabilities in relation to the discipline in which he or she is subject to if he or she was not on a secondment.

(3) This section does not affect:

(a) any rights, powers or immunities that a member who is seconded under section 22C has by virtue of holding the office or position to which the member has been seconded; or

(b) the extent to which the member is subject to obligations or liabilities in relation to discipline by virtue of holding the office or position to which the member has been seconded.

## **22E. Force Legal Office**

(1) A Force Legal Office is established.

(2) A person appointed to the Office as a legal officer must have qualification in legal studies or a law degree from a recognised tertiary institution.

(3) The Attorney General is to appoint a person with legal qualification as a legal officer in the Office.

## **35 Section 23 (heading)**

After “Postings”, insert “and transfers”

## **36 Subsection 23(2)**

Delete all the words from and including “Subject” to and including “a”, insert “A”

## **37 Subsection 24(1)**

Repeal the subsection, substitute

“(1) Members are to be paid such salaries and allowances fortnightly in arrears as may from time to time be approved by the Government Remuneration Tribunal, pursuant to the Government Remuneration

Tribunal Act [CAP 250], having regard to the rank and service of each member”

### **38 After subsection 28(3)**

Insert

“(4) Any member to whom subsection (1) applies who is not satisfied with any decision of the Commissioner or Commission may appeal that decision to a court of competent jurisdiction.”

### **39 Section 29**

Repeal the section, substitute

#### **“29. Severance payment**

A member who has:

- (a) retired in accordance with section 28; or
- (b) died in service or due to a natural cause; or
- (c) an illness and is discharged on medical ground; or
- (d) resigned,

is to receive from the Government a severance payment calculated at a rate as is determined for public servants by the Public Service Commission and pro-rata for each uncompleted year.”

### **40 Paragraph 31(1)(a)**

Delete the words “Government medical board”, substitute “recognized medical practitioner”

### **41 Paragraph 31(1)(c)**

After “efficient”, insert “and effective”

### **42 Section 32**

Delete the words “Government medical board”, substitute “recognized medical practitioner”

### **43 Paragraph 32A(6)(b)**

Repeal the paragraph, substitute

“(b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or husband, or former wife or husband as the case may be, or minor child of the person to whom the pension, gratuity or other allowance has been granted.”

#### **44 Subsection 34D(2)**

Delete “section 58”, insert “Part 5”

#### **45 After section 34(G)**

Insert

##### **“34H. Mobile Reserve Unit**

(1) The Mobile Reserve Unit is established as an auxiliary to the Mobile element of the Force.

(2) The Commissioner may, subject to appropriate training, and character clearances as must be prescribed, approve a citizen of Vanuatu to be a member of the Unit.

(3) The Commissioner may appoint members of the Unit:

(a) to serve in overseas peacekeeping mission: or

(b) to assist the Force to carry out its duties under section 22B under the same conditions provided under that section.

#### **46 Subsection 35(1)**

(a) After “by”, insert “or under a”

(b) After “law”, insert “of the Republic of Vanuatu”

#### **47 Section 40**

After “Commissioner”, insert “or the Commission”

#### **48 Subsection 41(1)**

After “officer,”, insert “or any subordinate officer acting under the authority of a senior officer”

#### **49 After section 45**

Insert

#### **“45A. Persons to be informed of grounds of arrest**

(1) A Police Officer who arrests a person for an offence must inform the person, at the time of the arrest, of the offence for which he or she is being arrested.

(2) It is sufficient that the person is informed of the substance of the offence in a language that he or she understands.

(3) Subsection (1) does not apply to the arrest of the person if the person’s actions make it impracticable for the Police Officer making the arrest to inform the person of the offence for which he or she is being arrested.

#### **45B. Internal investigations**

(1) The Minister may from time to time appoint in writing 3 persons to carry out internal investigations on any matter affecting a member or the Force for such period as he or she may determine.

(2) At least 1 person appointed under subsection (1) must have legal qualification from a recognised tertiary institution and 2 other persons are retired members of the Force.

(3) A report of the findings of the investigations must be produced to the Minister within 21 days after the completion of the report.

(4) The Minister is to provide a copy of the report to the Commissioner within 7 days after receiving such report.

(5) The Minister is to determine the terms and conditions of the appointment of the persons under this section.

(6) To avoid doubt, the term of appointment of a person under this section ceases immediately after the report of the findings of the investigation is produced to the Minister under subsection (3).”

#### **50 Section 51**

Repeal the section, substitute

#### **“51. Other employment or office**

It is an offence against discipline if a member is engaged in any other employment or office outside the duties of his or her office.”

#### **51 Sections 56 and 60**

After “himself”, insert “or herself”

**52 Paragraph 64(3)(b)**

Delete the word “Commission”, substitute “Commissioner”

**53 After section 81**

Insert

**“81A Transitional arrangements**

(1) This section applies to a person who was employed at the Department of the Vanuatu Police Force by the Public Service Commission immediately before the commencement of this Act.

(2) On and after the commencement of this Act, the person is to continue to be employed at the Department of the Vanuatu Police Force by the Police Service Commission:

(a) on the same terms and conditions; and

(b) in the same position; and

(c) with the same accrued or accruing entitlements.”

**54 After paragraph 82(a)**

Insert

“(aa) the provision of roles or functions for the comprising elements of the Force;

(ab) the rights of person being arrested, interviewed or held in custody.”

**55 Paragraph 82(e)**

After “benefits,”, insert “health and insurance scheme,”