

POLICE ACT

Act 19 of 1974 – 1 August 1974

ARRANGEMENT OF SECTIONS

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POLICE ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Police Act.

2. Interpretation

In this Act—

“Assistant Superintendent” means, in relation to the Special Mobile Force, a Unit Commander;

“Commissioner” means the Commissioner of Police;

“dangerous drug” has the same meaning as in the Dangerous Drugs Act;

“licence” means a licence issued under section 20;

“licensee” means the holder of a licence;

“Minister” means the Minister to whom responsibility for the Police Force is assigned;

“police officer” means a person who holds an office, or is appointed to serve, in the Police Force;

“private investigation” means an inquiry into any fact or circumstance, other than an official inquiry, to ascertain what has occurred, is occurring or may occur, and includes an inquiry made to obtain evidence to be brought before a Court, tribunal or any other body having any powers of investigation under any enactment;

“public gathering” has the same meaning as in the Public Gatherings Act;

“public road” has the same meaning as in the Roads Act;

“Tribunal” means the Employment Relations Tribunal established under the Employment Relations Act.

[S. 2 amended by Act 3 of 1987.]

3. —

PART II – POLICE FORCE

4. Oath to be taken

Every police officer shall, before entering on his duties, take the oath set out in the Schedule before the Commissioner.

5. Warrant card

A warrant card shall be issued to every police officer and shall be evidence of his appointment.

6. Orders and directions

(1) Subject to this Act, the Commissioner may make standing orders and give administrative directions to be observed by police officers in the performance of their duties.

(2) Every police officer shall obey all lawful orders given verbally or in writing, and shall comply with standing orders and administrative directions issued by the Commissioner.

7. Uniform and equipment

Every police officer shall—

- (a) wear the prescribed uniform; and

- (b) be provided with the staves, arms, ammunition and other equipment necessary for the effective discharge of his duties.

8. Police officers to be deemed on duty

Every police officer shall be deemed to be on duty when required to act as such, whether or not he is wearing the prescribed uniform, and shall perform the duties and may exercise the powers conferred on him by this Act while he is on duty.

9. Duties of Police Force

(1) The duties of the Police Force shall be to take all lawful measures for—

- (a) preserving the public peace;
- (b) preventing and detecting offences;
- (c) apprehending persons who have committed or who are reasonably suspected of having committed offences;
- (d) regulating processions and gatherings on public roads and in public places or places of public resort;
- (e) regulating traffic and preventing or removing obstructions from public roads;
- (f) preserving order in public places and places of public resort, at public gatherings and assemblies for public amusement;
- (g) assisting in implementing health, quarantine, customs and excise laws;
- (h) assisting in preserving order in ports, harbours and airports;
- (i) executing process issued by a Court;
- (j) swearing information and conducting prosecutions; and
- (k) performing such other functions as may be conferred on police officers under any other enactment.

(1A) The Police Force may exercise any of the duties referred to in subsection (1) (b), (c) and (k) in the maritime zones of Mauritius and, for the purposes of the Piracy and Maritime Violence Act, in the high seas.

(2) Every police officer shall perform such paramilitary duties as he may be required to do and, for that purpose, may serve in any specialised unit of the Police Force.

(3) For the purposes of subsection (1) (f), a police officer on duty shall have free admission to the places, gatherings and assemblies specified while they are open to the public.

[S. 9 amended by s. 11 (7) of Act 39 of 2011 w.e.f. 1 June 2012.]

10. Police officers to attend Court

The Commissioner shall provide a sufficient number of police officers to be in attendance at every Court, for the maintenance of order and for the purpose of executing warrants or other process.

11. Protection from liability

No liability shall attach to a police officer in respect of an act done in compliance with an order or warrant of a Court.

12. Powers of police officers

(1) A police officer may without warrant arrest any person who commits an offence within his view and whose name and address cannot be immediately ascertained.

(2) Any person arrested under subsection (1) may be detained until his identity has been established.

13. Road barriers

(1) Notwithstanding any other enactment, a police officer not below the rank of Inspector, may, if he considers it necessary for the maintenance and preservation of law and order or for the prevention or detection of offences—

- (a) erect or place a barrier in or across a public road or in a public place in such manner as he thinks fit; and
- (b) take all reasonable steps to prevent a vehicle from passing the barrier.

(2) The driver or other person in charge of a vehicle shall comply with the signal of a police officer requiring him to stop his vehicle before reaching a barrier placed under subsection (1).

(3) No police officer shall be liable for any loss or damage resulting to a vehicle or for any injury to any passenger or person in charge of the vehicle where the driver or other person in charge has failed to comply with any measures taken or signal given under this section.

13A. Protected area

(1) The Commissioner may, where he considers it necessary or expedient in the interest of public safety or public order so to do, by Order declare any area to be a protected area.

(2) The limits and extent of a protected area shall be demarcated at the site by such means as will, in the opinion of the Commissioner, make apparent to persons in or about the area concerned that that area has been declared a protected area.

(3) (a) No person shall, without lawful authority, enter or remain in a protected area.

(b) Any person who fails to comply with this subsection shall commit an offence.

(4) A police officer or a member of the armed forces may, within a protected area, take such measures as he considers necessary to ensure that no person prohibited from entering or remaining in a protected area enters or remains in that area.

(5) Notwithstanding any other enactment, no claim of any kind shall accrue to, or in respect of, any injury sustained by a person as a result of his having entered or remained in a protected area in breach of subsection (3).

(6) In this section and in sections 13B, 13C, 13E and 13 F, “public safety or public order” has the same meaning as in the Public Gatherings Act.

[S. 13A amended by Act 30 of 1991.]

13B. Restricted area

(1) The Commissioner may, where he considers it necessary or expedient in the interest of public safety or public order, order that special measures be taken to control the movement and conduct of persons in any area, and, by Order, declare that area to be a restricted area.

(2) (a) The Commissioner may issue to a person a permit authorising him to enter and leave a restricted area.

(b) The permit may be issued subject to such conditions as the Commissioner thinks fit to impose and may be cancelled.

(3) Any person who—

(a) enters or leaves a restricted area except in accordance with a permit issued under subsection (2); or

(b) contravenes any condition to which the permit is subject,

shall commit an offence.

(4) A police officer or a member of the armed forces may—

(a) arrest a person whom he finds attempting to enter a restricted area if he has reason to suspect that the person has not been issued with a permit under subsection (2);

(b) arrest a person who is in a restricted area without permission for such time as may be necessary to ensure his orderly removal from the restricted area; and

(c) remove a person who is in a restricted area without permission.

[S. 13B inserted by Act 30 of 1991.]

13C. Curfew order

(1) Subject to subsection (4), the Commissioner may, where he is satisfied that it is necessary or expedient in the interest of public safety or public order so to do, by a curfew order, direct that, within such area and during such hours as may be specified in the curfew order, every person, or as the case may be, every member of any class of persons specified in the curfew order, shall, except in accordance with a permit issued under subsection (2), remain indoors.

(2) The Commissioner may issue to a person a permit for the purposes of subsection (1) and may attach to the permit such conditions as he thinks fit to impose and may cancel the permit.

(3) Any person who contravenes—

- (a) any provision of a curfew order; or
- (b) any condition to which a permit issued under subsection (2) is subject,

shall commit an offence.

(4) Any curfew order made by the Commissioner under this section shall be limited to a specific locality.

[S. 13C inserted by Act 30 of 1991.]

13D. Having offensive weapon during curfew

Any person who, without lawful authority or reasonable excuse, is found outdoors in possession of an offensive weapon, in any area in which a curfew order is in force and while the curfew imposed is operative, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to penal servitude for a term not exceeding 5 years.

[S. 13D inserted by Act 30 of 1991.]

13E. Closing of trade premises

(1) Without prejudice to any other enactment, where it appears to the Commissioner that premises have been used or are intended to be used for any purpose or in any manner prejudicial to the interest of public safety or public order, he may, by notice in writing, require them to be closed or remain closed until further notice or for such period as may be specified in the notice.

(2) A notice issued under subsection (1) shall be published by posting up a copy on the premises affected and shall remain in force until revoked or until the period specified in the notice expires.

(3) A certificate under the hand of the Commissioner to the effect that a copy of the notice has been duly posted up in accordance with subsection (2) shall be conclusive evidence of the posting up of a copy of the notice on the premises.

(4) Where a notice has been issued under this section, a police officer may, without prejudice to any proceedings which may be taken against a person acting in breach of the notice, take such steps and use such force as may be necessary to ensure compliance with the notice.

(5) Any person who, while a notice under this section is in force, enters or is found upon any premises affected by the notice, shall commit an offence.

[S. 13E inserted by Act 30 of 1991.]

13F. Power of arrest

(1) A police officer who has reason to suspect that a person has committed or is about to commit an offence which will endanger public safety or public order, may arrest that person and use such force as may be necessary for that purpose.

(2) A person arrested under subsection (1) shall be brought within 48 hours of his arrest before a Court.

[S. 13F inserted by Act 30 of 1991.]

13G. Obstructing police officer

Any person who obstructs a police officer or a member of the armed forces—

- (a) in the exercise of any powers conferred; or
- (b) in the performance of any duties imposed,

on him by this Act, shall commit an offence.

[S. 13G inserted by Act 30 of 1991.]

14. Search warrants and medical examination

(1) Where, in a case of urgency, communication with a Magistrate would cause delay that would defeat the ends of justice, a police officer, not below the rank of Assistant Superintendent, may—

- (a) on sworn information that a person has unlawfully in his possession any dangerous drug, any property obtained by means of an offence, or any article used or likely to be used in the commission of an offence, issue a warrant to search for the dangerous drug, property or article; or
- (b) call upon a Government medical officer, or other medical practitioner, to make such examination of the person of an alleged offender as the circumstances of the case require.

(2) For the purposes of subsection (1), a police officer, not below the rank of Assistant Superintendent, may administer oaths.

(3) A police officer who acts under subsection (1) shall—

- (a) report to the Commissioner the circumstances in which he issued a search warrant, or asked for the medical examination of an alleged offender, and the result of the search or examination; and
- (b) forward to the appropriate District Court within the shortest possible delay the warrant endorsed with the result of the search.

[S. 14 amended by Act 3 of 1987.]

15. Disposal of articles seized

(1) Where an article is seized under a warrant issued under section 14 and is on examination found not to have been obtained by means of an offence or used in the commission of an offence, it shall be restored to the person from whom it was taken.

(2) Where it appears that the article was obtained by means of an offence, or used in the commission of an offence, the article shall, on the prosecution of the alleged offender, be produced to the Court and shall be dealt with as the Court may direct.

16. Assistance to police officers

(1) Where a police officer in the exercise of his duty considers it reasonably necessary, he may call upon a male person, apparently over the age of 18, to assist him to apprehend any person or to convey any person in his charge to a police station or to any other place.

(2) Where a person who has been called upon to assist a police officer under subsection (1) fails to do so, he shall commit an offence.

17. —

[S. 17 repealed by s. 4 (2) (a) of Act 25 of 2016 w.e.f. 9 January 2017.]

PART III – NATIONAL SECURITY

18. Functions of National Security Service

(1) A National Security Service may be established to—

- (a) obtain, correlate and evaluate intelligence relevant to national security, and communicate such intelligence to such persons and in such manner as the head of the Service considers to be in the interests of national security;
- (b) provide security intelligence to the Prime Minister and such other persons as the Prime Minister may direct; and
- (c) do all such other things as may be necessary for the proper performance of the functions specified in paragraphs (a) and (b).

(2) No police officer nor any person referred to in section 19 (1) or (2) shall—

- (a) trail any individual on account of the involvement of the individual in any political activity or in any other form of lawful protest or dissent;

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- (b) act as a political activist, or engage in any political activity, or interfere in any manner with any electoral process.

[S. 18 amended by Act 7 of 1982; s. 3 of Act 9 of 2001, w.e.f. 30 June 2001.]

19. Staff of National Security Service

(1) The Director-General of the National Security Service and such officers as may be reasonably necessary for the purpose of, or in connection with, the discharge by the National Security Service of its functions may be police officers.

(2) Where the interests of national security so require, the Director-General may enlist persons, other than police officers, to assist the National Security Service on such terms and conditions as he may determine.

(3) (a) The Director-General of the National Security Service shall perform such functions as the Commissioner of Police may assign to him under section 6.

(b) In the exercise of his functions under paragraph (a), the Director-General shall have the assistance of such police officers as the Commissioner of Police may determine.

[S. 19 amended by Act 7 of 1982; Act 49 of 1983; s. 4 of Act 9 of 2001 w.e.f. 30 June 2001.]

PART IV – PRIVATE INVESTIGATIONS

[Heading amended by s. 20 (a) of Act 5 of 2004 w.e.f. 1 July 2008.]

20. Application for licence

(1) No person shall, unless he holds a licence, undertake a private investigation for a fee or reward.

(2) A person wishing to be licensed for the purposes of subsection (1) shall make an application for a licence to the Commissioner in such form as the Commissioner may require.

(3) Where the Commissioner is satisfied that the applicant can properly conduct the business of private investigations, he may, with the approval of the Minister and subject to such conditions as he thinks fit to impose, issue a licence to the applicant.

(4) —

[S. 20 amended by Act 15 of 1998; s. 20 (b) of Act 5 of 2004 w.e.f. 1 July 2008.]

21. Disclosure of information

(1) Subject to subsection (2), the Commissioner may require a licensee to disclose to him any information in his possession which may relate to the commission of an offence.

(2) Where any information received by the licensee from a client is likely to incriminate the client, the information shall not be disclosed without the prior consent of the client.

(3) Where the Director of Public Prosecutions is satisfied that the continuance of a private investigation may interfere with the investigation of an offence by the Police Force, he may, by written direction, require the private investigation, to be discontinued until the police inquiries are completed.

[S. 21 amended by s. 20 (c) of Act 5 of 2004 w.e.f. 1 July 2008.]

PART V – MISCELLANEOUS

22. Co-operation with other bodies

(1) The Commissioner shall co-operate as far as practicable and necessary with public authorities in Mauritius and abroad that can assist the Police in the performance of its functions.

(2) Notwithstanding section 9, the Commissioner may require any officer to form part of a peace-keeping mission in any country where—

- (a) the peace-keeping mission will operate under the aegis of the United Nations or any other international or regional organisation of which Mauritius is a member; and
- (b) Government has decided that Mauritius should participate in such a mission.

[S. 22 amended by s. 3 of Act 42 of 2003 w.e.f. 29 November 2003.]

23. Unclaimed property

(1) Subject to subsection (2), an article which has come into the possession of a police officer in the exercise of his duties and which is—

- (a) unclaimed after 3 months; or
- (b) produced in Court proceedings and remains unclaimed for 3 months after the final determination of the proceedings,

shall, on the direction of the Commissioner, be sold by public auction.

(2) Notice of a sale under subsection (1) shall be published in the *Gazette* and 2 daily newspapers at least a week before the sale.

(3) An article specified in subsection (1) which is of a perishable nature may, at any time and in such manner as the Commissioner may direct, be sold or destroyed.

(4) The proceeds of every sale shall, after deduction of the costs, be paid into the Consolidated Fund.

(5) Notwithstanding the Sales by Auction Act, the Commissioner may, if he thinks fit, appoint a police officer to conduct a sale under subsection (1).

24. Offences and penalties

(1) A police officer who directly or indirectly accepts or attempts to accept any fee or reward from any person in relation to his duties shall commit an offence.

(2) Any person licensed to sell liquor, rum or compounded spirits who knowingly allows a police officer on duty to remain on his licensed premises for the purpose of consuming liquor, rum or compounded spirits shall commit an offence.

(3) Any person—

- (a) other than a police officer, who confers upon himself the quality of a police officer, with intent to obtain admission into any place which he is not entitled to enter or to do or procure to be done anything which he is not entitled to do or procure to be done, or for any other unlawful purpose;
- (b) who fails to comply with a direction of the Director of Public Prosecutions under section 21 (3); or
- (c) who contravenes or fails to comply with this Act or with any regulations made under this Act,

shall commit an offence.

(4) Any person who commits an offence under this Act or under any regulation made under this Act for which no specific penalty is provided shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

(5) The licence issued to any person who commits an offence under subsection (2) or (3) (b) shall, in addition, be liable to forfeiture.

[S. 24 amended by s. 5 of Act 9 of 2001 w.e.f. 30 June 2001.]

25. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide for the taking of fees and the granting of licences.

(3) The Commissioner may make such regulations as he thinks fit for the—

- (a) maintenance of law and order;
- (b) security of the State;
- (c) security of persons and property;
- (d) control of vehicles;
- (e) control of pleasure craft; and
- (f) control of places of amusement and recreation.

(4) Notwithstanding the Interpretation and General Clauses Act, any regulations made under subsection (3)—

- (a) shall not be laid before the Assembly; and

(b) shall be published in such manner, and shall come into operation on such day, as the Commissioner may determine.

[S. 25 amended by s. 4 (2) (b) of Act 25 of 2016 w.e.f. 9 January 2017.]

SCHEDULE

[Section 4]

OATH

I, swear/solemnly affirm that I will faithfully execute and perform the duties of* of Police, and of any other office in the Police Force to which I may be appointed, in the preservation of peace and the prevention and detection of all offences, and all other duties as required of me by law, without fear or favour, affection or ill will.

So help me God.

..... (Name)

..... (Rank)

* Here insert name of office
