

Namibia

## Police Act, 1990

Act 19 of 1990

Legislation as at 21 July 2023

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Annotated Statutes

## Police Act, 1990 Act 19 of 1990

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[\[Amended by \[Police Amendment Act, 2023 \\(Act 3 of 2023\\)\]\(#\) on 21 July 2023\]](#)

### ACT

To provide for the establishment, organization and administration of the Namibian Police Force; to regulate the powers and duties of the Force and to prescribe the procedures in order to secure the internal security of Namibia and to maintain law and order; to regulate the discipline, appointment, promotion and discharge of members of the Force; and to provide for incidental matters.

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

#### 1. Definitions

In this Act, unless the context otherwise indicates -

“**auxiliary member**” means any auxiliary member referred to in [section 12\(1\)\(b\)](#);

“**competent authority**” means a competent authority as defined in section 1 of the Financial Intelligence Act, 2012 (Act [No. 13 of 2012](#));

[\[definition of “competent authority” inserted by section 1\(a\) of \[Act 3 of 2023\]\(#\)\]](#)

“**Inspector-General**” means the Inspector-General appointed under Article 142 or 32(4)(c)(bb) of the Namibian Constitution, as the case may be;

“**funding of terrorism**” means funding of terrorism as defined in section 1 of the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act [No. 4 of 2014](#));

[\[definition of “funding of terrorism” inserted by section 1\(b\) of \[Act 3 of 2023\]\(#\)\]](#)

“**member**” means an officer and non-officer of the Namibian Police appointed as such under [section 4\(1\)](#) and includes, except for the purposes of any provision of this Act in respect of which the Inspector-General may, subject to the directions of the Minister, otherwise prescribe, any member of the Reserve Force while serving in the Force and any temporary and auxiliary member;

“**Minister**” means the Minister responsible for policing;

[definition of “Minister” amended by Act [14 of 2005](#)]

“**misconduct**” means -

- (a) any contravention of this Act; or
- (b) the commission of any other offence;

“**money laundering**” means money laundering as defined in section 1 of the Financial Intelligence Act, 2012 (Act [No. 13 of 2012](#));

[definition of “money laundering” inserted by section 1(c) of Act [3 of 2023](#)]

“**prescribe**” or “**prescribed**” means prescribe or prescribed by regulation, and in the case of any power exercised by the Inspector-General, prescribe or prescribed by rules;

“**proliferation activity**” means proliferation activity as defined in section 1 of the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act [No. 4 of 2014](#));

[definition of “proliferation activity” inserted by section 1(d) of Act [3 of 2023](#)]

“**regulation**” means any regulation made or in force under this Act;

“**Reserve Force**” means the Reserve Police Force referred to in [section 11](#);

“**temporary member**” means any temporary member referred to in [section 12\(1\)\(a\)](#);

“**the Force**” means the Namibian Police Force established under [section 2](#); and

“**this Act**” includes the regulations, rules and directions made or in force thereunder.

## Chapter I

### ESTABLISHMENT, ORGANIZATION AND ADMINISTRATION OF THE FORCE

#### 2. Establishment and composition of the Namibian Police Force

- (1) There is hereby established a police force to be known as the Namibian Police and which shall, in addition to the Inspector-General, consist of the other officers and non-officers appointed under this Act as members of the Namibian Police and includes, except for the purposes of any provision of this Act in respect of which the Inspector-General may, subject to the directions of the Minister, otherwise prescribe, any member of the Reserve Force while serving in the Force and any temporary and auxiliary member.
- (2) A person who was a member of the South West African Police immediately before the commencement of this Act, shall, with due recognition of his or her previous period of service as a member of the South West African Police, be deemed to have been appointed under this Act as a member of the Namibian Police, and to have been assigned to the duties in which he or she is serving at that date and any training undergone or service performed by any such person in the South West African Police prior to such date shall be deemed to have been undergone or performed under this Act.

### 3. Command of the Force and functions of the Inspector-General

- (1) The Inspector -General is in command of the Force and shall perform the functions entrusted to him or her by this Act.
- (2) The functions of the Inspector-General shall include the power or duty to -
  - (a) develop a plan setting the priorities of policing of the Force;
  - (b) determine the fixed establishment of the Force and the number and grading of posts;
  - (c) determine the distribution of the numerical strength of the Force;
  - (d) organise or reorganise the Force into various components, units and groups;
  - (e) establish and maintain training institutions or centres for the training of members;
  - (f) determine the type of training that members shall undergo;
  - (g) establish and maintain bureaus, depots, quarters, workshops or any other institution which may be expedient for the general management, control and maintenance of the Force;
  - (h) appoint any member to be in charge of members in any place;
  - (i) order any member appointed under paragraph (h) to carry out the orders of the Inspector-General in all matters connected with the discipline, internal administration and training of the members in his or her charge;
  - (j) perform any act which may be lawfully performed on behalf of the Force; and
  - (k) make such rules as he or she may consider expedient for the -
    - (i) efficient command, superintendence and control of the Force;
    - (ii) prevention of dereliction of duty in the Force; and
    - (iii) promotion of efficiency and discipline of members in the Force.
- (3) The Inspector-General shall submit an annual report to the Minister in such form as the Minister may determine on the exercise of the Inspector-General's powers and the performance of his or her functions, on the functions and efficiency of the Force, on the maintenance of discipline in the Force and on such other matters as are relevant to policing issues.

[\[section 3 substituted by Act 3 of 1999\]](#)

#### 3A. Powers of the Minister

- (1) Notwithstanding anything contained in this Act or any other law, the Minister may, in writing -
  - (a) issue instructions or directives to the Inspector-General in relation to the exercise of any power or performance of any duty by the Inspector-General; or
  - (b) set aside or vary any decision or action taken by the Inspector-General or any member to whom any power or function may have been delegated or assigned.
- (2) The Minister may, in writing, delegate any of the powers referred to in subsection (1) to the Deputy Minister of Home Affairs or to the Permanent Secretary: Home Affairs, on such conditions as the Minister considers fit.

[\[section 3A inserted by Act 3 of 1999\]](#)

### 3B. Removal of Inspector-General

- (1) The President may exercise the power conferred by Article 117 of the Namibian Constitution to remove the Inspector-General from office, either on his or her own motion or after consultation with the Security Commission.
- (2) Where the President in terms of subsection (1) consults the Security Commission on the removal of the Inspector-General from office, the Security Commission shall make a recommendation to the President as to whether or not the Inspector-General should be removed.
- (3) If the Security Commission is of the view that the Inspector-General ought to be removed from office, the Commission shall before making a recommendation to that effect to the President -
  - (a) notify the Inspector-General, in writing, of the grounds on which it is considered he or she ought to be removed from office; and
  - (b) provide the Inspector-General with an opportunity to make representations either orally or in writing or both; and
  - (c) consider any representations made by the Inspector-General.
- (4) The President may, after considering the recommendations of the Security Commission, accept or reject the recommendations and shall inform the Inspector-General of his or her decision.

[\[section 3B inserted by Act 3 of 1999\]](#)

### 4. Appointment as officers and non-officers and promotion, discharge or demotion of members

- (1) The Inspector-General shall, subject to the regulations, appoint fit and proper persons to be members of the Force, and shall appoint such members as officers or non-officers, as the case may be.
- (1A) Notwithstanding anything to the contrary in this Act, or in any law, no person shall be appointed to the Police Force unless he or she has undergone the prescribed medical examination and it has been established that he or she does not have any physical or mental defect or does not suffer from any disease or ailment which -
  - (a) will impair his or her ability to undergo any form of training required to be undertaken or to perform his or her duties as a member of the Police Force;
  - (b) is likely to deteriorate to the extent that it will impair his or her ability to undergo any form of training required to be undertaken or to perform his or her duties as a member of the Police Force; or
  - (c) is likely to be aggravated by his or her undergoing any form of training required to be undertaken or by the performance of his or her duties as a member of the Police Force.

[\[subsection \(1A\) inserted by Act 5 of 2001\]](#)

- (2) Any document in the prescribed form signed by the Inspector-General and certifying that any person has been appointed as a member, shall be *prima facie* proof that such person has been so appointed.
- (2A) Any member appointed in terms of subsection (1) shall be on probation for the first 12 months of his or her service or such longer period as the Inspector-General may determine in a particular case.

[\[subsection \(2A\) inserted by Act 3 of 1999\]](#)

- (2B) Any person who has been convicted of any offence set out in Schedule 1 to this Act shall not qualify to be appointed as a member.

[subsection (2B) inserted by Act 3 of 1999]

- (3) The Inspector-General may, subject to the provisions of this Act, promote, discharge or reduce in rank any member.

## 5. Granting of commission

The President may from time to time grant under his or her hand or bearing a replica of his or her signature, commission to any member who has been appointed as officer.

## 6. Resignation of officers

- (1) Subject to the provisions of subsection (3), a member may by notice in writing tender the resignation of his or her appointment.

[subsection (1) amended by Act 3 of 1999]

- (2) The notice referred to in subsection (1) shall take effect upon the expiration of a period of one calendar month after the date upon which it is lodged with such member's commanding officer or on such earlier date as may be approved by the Inspector-General on the request of a member.

[subsection (2) amended by Act 3 of 1999]

- (3) The Inspector-General shall only resign from the Force after consultation with the President.

## 7. Discharge of members on account of ill-health

- (1) Any member may be discharged from the Force by the Inspector-General if, after enquiry by a board of enquiry in the prescribed manner as to his or her state of health, the Inspector-General is of the opinion that he or she is by reason of ill-health unfit to remain in the Force.
- (2) Any member discharged from the Force in terms of subsection (1) may in the prescribed manner appeal to the Minister against such discharge, who may thereupon set aside or confirm his or her discharge.

## 8. Discharge or reduction in rank of members on account of inefficiency

- (1) A member may be discharged from the Force or reduced in rank by the Inspector-General if, after enquiry by a board of enquiry in the prescribed manner as to his or her fitness to remain in the Force or to retain his or her rank, the Inspector-General is of the opinion that he or she is incapable of performing his or her duties efficiently: Provided that if a member is still serving his or her probation period in terms of [section 4](#) such a prior enquiry shall not be required, but such member shall be afforded an opportunity to be heard prior to any discharge.
- (2) A member who has been discharged from the Force or reduced in rank by the Inspector-General in terms of subsection (1), may in the prescribed manner appeal to the Minister against the decision of the Inspector-General, and the Minister may set aside or confirm such decision.

[section 8 substituted by Act 3 of 1999]

## 9. Discharge of members on account of long absence without leave

A member who absents himself or herself from his or her official duties without the permission of the Inspector-General for a continuous period exceeding thirty days, shall be deemed to have been discharged from the Force on account of misconduct with effect from the date immediately following upon the last day on which he or she was present at his or her place of duty: Provided that if any member absents himself or herself from his or her official duties without such permission and accepts other employment,



he or she shall be deemed to have been so discharged even if he or she has not yet so absented himself or herself for a month: Provided further that if a member deemed to have been so discharged, again reports for duty, the Inspector-General may, notwithstanding anything to the contrary contained in any law, reinstate him or her in his or her former post or appoint him or her to any other post or appointment in the Force on such conditions as the Inspector-General may deem fit, and in that event the period of his or her absence from his or her official duties shall be deemed to have been absence on vacation leave without pay, or leave on such other conditions as the Inspector-General may determine.

#### 10. Employment of Force in times of emergency

- (1) The President may in any regulations which he or she may make under the provisions of Article 26(5) of the Namibian Constitution, during the state of emergency or national defence contemplated in that Article, make provision for the employment of the Force or any part thereof to assist in countering any such emergency or in the defence of Namibia, and may place the Force or any part thereof, while so employed, under the orders and directions of such person as the President may for that purpose appoint.
- (2) The Force or the said part thereof shall while so employed, be subject to the laws governing the discipline, command and control of the Namibia Defence Force when on active or military service, but shall not thereby be excluded from the operation of this Act: Provided that no member of the Force shall be prosecuted for an offence under this Act as well as under the laws governing the discipline, command and control of the said Defence Force.

#### 11. Reserve Police Force

- (1) There shall be a Reserve Police Force which shall consist of persons appointed on such conditions as the Inspector-General may prescribe.
- (2) The Inspector-General may order any member of the Reserve Force to report for service in the Force at a specified time and place, and any such member who fails to comply with such order shall be guilty of an offence and liable on conviction to the penalties prescribed in [section 17](#).
- (3) The Inspector-General may, notwithstanding the provisions of [section 7](#) or [8](#), at any time discharge from the Force any member of the Reserve Force.

#### 12. Appointment and discharge of temporary and auxiliary members

- (1) If it is necessary for the proper performance of the functions of the Force, the Inspector-General may temporarily appoint so many fit and proper persons in a full-time or part-time capacity as he or she may deem expedient -
  - (a) in posts constituting part of the fixed establishment which have not been permanently filled, to act as temporary members; or
  - (b) in posts additional to the fixed establishment if there are not sufficient ordinary members to perform police duties in any locality, to act as auxiliary members.
- (2) The Inspector-General may, notwithstanding the provisions of [sections 7](#) or [8](#), at any time discharge from the Force any such temporary or auxiliary member.

### Chapter II

## FUNCTIONS OF FORCE AND POWERS AND DUTIES OF MEMBERS

#### 13. Functions of the Force

The functions of the Force shall be -

- (a) the preservation of the internal security of Namibia;

- (b) the maintenance of law and order;
- (c) the investigation of any offence or alleged offence;
- (d) the prevention of crime; and
- (e) the protection of life and property.

**[section 13 amended by Act 3 of 1999]**

#### 14. Powers and duties of members

- (1) A member shall exercise such powers and perform such duties as are by this Act or any other law conferred or imposed upon such member, and shall, in the execution of his or her office, obey all lawful orders which he or she may from time to time receive from his or her seniors in the Force: Provided that the Minister may, by notice in the *Gazette*, in relation to members serving in any specified division of the Force -
- (a) exclude from their functions any of the powers or duties so conferred or imposed by this Act or such other law; or
  - (b) limit their functions to such powers or duties as are specified or described in the notice.

**[subsection (1) amended by Act 3 of 1999]**

- (2) Every member shall be competent to serve or execute any summons, warrant or other process authorized by law, and if the member who originally has had to serve or execute the summons, warrant or other process, is unable to serve or execute such summons, warrant or other process, such summons, warrant or process may be served or executed by any other member, and every such last-mentioned member shall have the same rights, powers and authorities for and in the service or execution of such summons, warrant or process which the member had who originally has had to serve or execute the summons, warrant or other process.
- (3) The Inspector-General may, in consultation with the Attorney-General, require any member generally or in any particular instance, to appear on behalf of the State in any criminal case, including the holding of a preparatory examination, in any lower court referred to in Article 78 of the Namibian Constitution.
- (4) (a) Notwithstanding anything to the contrary in any other law contained, a member may, where it is reasonably necessary for a purpose referred to in [section 13](#), without warrant search any person, premises, place, vehicle, vessel or aircraft or any receptacle if the delay in obtaining a warrant would defeat the object of the search, providing -
- (i) such search is not excessively intrusive in the light of the threat or offence; and
  - (ii) the person concerned, if he or she is present, is informed of the object of the search, and such member may seize anything found in the possession of such person or upon or at or in such premises, other place, vehicle, vessel, aircraft or receptacle which in his or her opinion has a bearing on the purpose of the search.

**[paragraph (a) substituted by Act 3 of 1999]**

- (b) If a woman is searched under paragraph (a), the search shall be made by a woman only, with strict regard to decency, and if there is no woman who is a member available for such search, the search may be made by any woman specially designated for such purpose by a member.
- (c) The provisions of section 30 of the Criminal Procedure Act, 1977 (Act [51 of 1977](#)), shall *mutatis mutandis* apply in respect of anything seized under paragraph (a).
- (d) To the extent that the provisions of this section authorize the interference with the privacy of a person's correspondence or home by conducting any search under those provisions, such interference shall be authorized only on the grounds of public safety, the prevention of

disorder or crime and for the protection of the rights or freedom of others as contemplated in Article 13(1) of the Namibian Constitution.

- (5) (a) Notwithstanding anything to the contrary in any other law contained, but subject to the provisions of subsection (4), any member may, in the performance of the functions referred to in [section 13](#), search without warrant any vehicle on any public road or railway in Namibia, or any vessel or aircraft in Namibia, or any receptacle of whatever nature in, on or attached to the vehicle, and seize any article referred to in section 20 of the Criminal Procedure Act, 1977 (Act [51 of 1977](#)), found in, on or attached to the vehicle, vessel or aircraft, or in the receptacle.
- (b) For the purposes of exercising the powers conferred by paragraph (a), a member may by means of an appropriate indication or direction, or in any other manner order the driver of a vehicle on a public road or railway to bring that vehicle to a stop and may, notwithstanding anything to the contrary in any law contained, display, set up or erect on or next to the road or railway such sign, barrier or object as is reasonably necessary to bring the order to the attention of the driver and to ensure that the vehicle will come to a stop.
- (c) A person who refuses or neglects to stop a vehicle in accordance with an order under paragraph (b) shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.
- (d) The provisions of the Criminal Procedure Act, 1977 (Act [51 of 1977](#)), with regard to the disposal of an article referred to in section 30 of that Act and seized under the provisions of that Act, shall *mutatis mutandis* apply in respect of an article seized under paragraph (a).
- (e) To the extent that the provisions of this subsection authorize any limitation on a person's right to move freely throughout Namibia in that a member may order any driver of a vehicle on a public road or railway to bring that vehicle to a stop and to set up or erect any barrier or object for that purpose under those provisions, such limitation shall be authorized only on the grounds of national security, public order or the incitement to an offence.
- (6) Notwithstanding anything to the contrary in any other law contained, the Inspector-General may, in the performance of any function referred to in [section 13](#), publish or cause to be published, or in any other manner display or cause to be displayed any photograph or sketch of any person.
- (7) If the Inspector-General deems it necessary for the purposes of the performance of the functions of the Force he or she may, with the approval of the Minister, direct any member to perform service at any place outside Namibia: Provided that in circumstances determined by the Minister, the Inspector-General may, without such approval, direct any member to perform service at any place outside Namibia.
- (8) A member in respect of whom a direction has been issued in terms of the provisions of subsection (7), shall perform service in accordance with such direction.
- (9) Any person, not being a member employed in the Force to perform duties in connection with the examination of scenes of crime may, in the execution of his or her duties, exercise the powers conferred on police officials by section 22 of the Criminal Procedure Act, 1977 (Act [No. 51 of 1977](#)) and such person shall be deemed to be a police official for the purposes of section 28 of that Act.

**[subsection (9) inserted by Act 3 of 1999]**

- (10) Any member may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of an offender or suspected offender or persons unlawfully at large.

**[subsection (10) inserted by Act 3 of 1999]**

- (11) Notwithstanding the provisions of subsection (4) or anything to the contrary contained in any other law, it shall not be lawful for a member in the purported exercise of the powers conferred on him or her under this Act to seize an item subject to legal privilege.

[subsection ( 11) inserted by Act 3 of 1999]

- (12) For the purposes of subsection (11), “an item subject to legal privilege” means -
- (a) communication between a legal practitioner and a client or any person representing a client, made in connection with the giving of legal advice to the client;
  - (b) communication between a legal adviser and a client or any person representing a client or between such adviser or his or her client or any such representative and any other person, made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
  - (c) items enclosed in or referred to in the communications referred to in paragraphs (a) and (b) and made -
    - (i) in connection with the giving of legal advice; or
    - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, when they are in the possession of a person who is entitled to possess them,

but does not include items held with the intention of furthering a criminal or fraudulent purpose.

[subsection (12) inserted by Act 3 of 1999]

#### 14A. Sharing of information with foreign authorities

- (1) The Inspector-General or a member authorised by the Inspector-General may, with the approval of the Minister, share information obtained during an investigation of money laundering and its associated predicate offence, the funding of terrorism or proliferation activity or any other offence of interest with a foreign law enforcement agency, on such terms as the Inspector-General may deem appropriate.
- (2) The Inspector-General or a member authorised by the Inspector-General may, with the approval of the Minister, co-ordinate with a domestic competent authority regarding the sharing of information in possession of the Force with a foreign non-law enforcement agency, on such terms as the Inspector-General may deem appropriate.
- (3) A request for the sharing of information relating to money laundering and its associated predicate offence, the funding of terrorism or proliferation activity or any other offence of interest from the Force shall be addressed to the Inspector General.

[section 14A inserted by section 2 of Act 3 of 2023]

#### 15. Right of entry in case of fire

Any member may, without the consent of any person, break into and enter upon any premises being or appearing to be on fire, or any premises or land adjoining or adjacent thereto, and may do everything necessary to extinguish such fire, or for protecting such premises or land or for rescuing any person or property thereon from such fire.

## 16. Traffic barriers and cordons

- (1) Without derogating from the functions referred to in [section 13](#) and notwithstanding the provisions of any other law any officer may, when he or she considers it necessary for the maintenance of law and order or for the prevention and detection of crime -
  - (a) erect or place or cause to be erected or placed barriers, or cause a cordon to be formed in or across any road, street or any other public place in such manner as he or she may think fit;
  - (b) cause a cordon to be formed in, across or around any private property in such manner as he or she may think fit, and for that purpose it shall be lawful for the members forming the cordon, without the consent of any person, to enter any property and do any act or thing necessary for the effective formation of the cordon.
- (2) Where a barrier has been erected or placed or a cordon formed under the provisions of subsection (1)(a), any member may take all reasonable steps to prevent any person from passing or any vehicle from being driven past such barrier or cordon.
- (3) The driver of any vehicle who fails to comply with any reasonable signal of a member requiring such driver to stop his or her vehicle before reaching any barrier or cordon referred to in subsection (1), shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 6 months, or to both such fine and such imprisonment.
- (4) To the extent that the provisions of this section authorize the interference with the privacy of a person's home or the limitation of a person's right to move freely throughout Namibia by causing a cordon to be formed in or across any private property and to enter any such property or preventing any person from passing or any vehicle from being driven past such barrier or cordon under those provisions, as the case may be, such interference or limitation of a person's right, shall be authorized only -
  - (a) in the case of such interference, on the grounds of the prevention of crime or the protection of the rights of others as contemplated in Article 13(1) of the Namibian Constitution; or
  - (b) in the case of such limitation of a person's right, on the grounds of national security, public order or the incitement to an offence.

## Chapter III DISCIPLINE

### 17. Contravention of Act by members

Any member who contravenes or fails to comply with any provision of this Act or any order issued in terms of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

### 18. Disciplinary proceedings against members

- (1) Notwithstanding the provisions of [section 17](#), a member who is accused of misconduct may be charged with misconduct by the Inspector-General in the manner prescribed.
- (2) Disciplinary proceedings shall be conducted, in such manner as may be prescribed, before -
  - (a) an officer in the Force, not being subordinate in rank to the accused, who has been generally or specifically designated by the Inspector-General for the purpose; or
  - (b) any legally qualified staff member in the Public Service, designated by the Minister, after consultation with the Attorney-General.

- (3) A person before whom disciplinary proceedings are conducted in terms of subsection (2) may, upon conviction of the member concerned of misconduct and after the member concerned has been given an opportunity of being heard as to the penalty to be imposed, impose any punishment as prescribed, but subject to any restriction which the Inspector-General may impose in a particular case.
- (4) Upon conclusion of any disciplinary proceedings, the person who presided at such proceedings shall transmit the record of the proceedings in the case to the Inspector-General or any officer in the Force designated by the Inspector-General for that purpose, and the Inspector-General or such officer may -
  - (a) confirm, alter or quash the conviction; or
  - (b) confirm, set aside or alter the punishment imposed, which may include the increase of any penalty imposed.
- (5) Where a member is charged with misconduct which constitutes an offence in respect of which he or she has been convicted by a court of law, a certified copy of the record of the trial in question shall, on its mere production to the person presiding at the disciplinary proceedings conducted in terms of subsection (2), be admissible in evidence, and a certified copy of the charge and conviction in question shall, on its mere production to the person so presiding be *prima facie* proof of the commission of such offence by such member.
- (6) No conviction or punishment imposed by a person referred to in subsection (2) shall be of any effect unless it has been confirmed or altered by the Inspector-General or the officer referred to in subsection (4).
- (7) The Inspector-General may, if he or she thinks fit, direct that the record of the proceedings in any case in which the conviction and punishment has been confirmed or altered by an officer referred to in subsection (4) be submitted to him or her for review, and the Inspector-General may thereupon act in accordance with the provisions of that subsection as if the matter had been submitted to him or her for purposes of confirmation of the conviction and punishment.
- (8) A member may, within the period and in the manner as prescribed, appeal to the Minister against any conviction and punishment which became of effect in respect of him or her in terms of subsection (6) or (7).
- (9) Upon the consideration of an appeal in terms of subsection (8), the Minister may -
  - (a) confirm, quash or alter the conviction; or
  - (b) confirm, set aside or alter any punishment imposed, which may include the increase of such punishment.
- (10) In the event of an appeal under subsection (8), the enforcement of any punishment imposed in respect of the conviction which is the subject of the appeal, shall not be suspended pending the determination of the appeal.
- (11) No penalty shall be increased under subsection (4), (7) or (9) unless the member concerned has been given an opportunity of being heard.
- (12) If a conviction and punishment are set aside under subsection (4), (7) or (9) on the ground -
  - (a) that the officer who convicted the member was not competent to do so; or
  - (b) that the charge sheet on which the member was convicted was invalid or defective in any respect; or
  - (c) that there was any other technical irregularity or defect in the procedure,the Inspector-General may again within a period of thirty days charge the member concerned upon the same facts, and in such event a person other than the person before whom the initial

proceedings took place shall be designated under subsection (2) to conduct the disciplinary proceedings.

- (13) Notwithstanding anything contained in this section, the Inspector-General may, in respect of any charge of misconduct in terms of subsection (1), which in his or her opinion does not warrant a more severe punishment, stipulate in the charge sheet -
- (a) an amount, not exceeding N\$200 which may be paid by the member concerned as an admission of guilt fine before a specified date, should he or she admit his or her guilt; and
  - (b) that any member who pays the admission of guilt fine referred to in paragraph (a) shall not be subject to any disciplinary proceedings in respect of the charge of misconduct concerned.

[\[section 18 substituted by Act 3 of 1999\]](#)

## 19. \*\*\*

[\[section 19 deleted by Act 3 of 1999\]](#)

## 20. Powers of person conducting disciplinary proceedings

- (1) For the purposes of any disciplinary proceedings or enquiry held in terms of this Act, the person presiding at such proceedings or enquiry may-
- (a) in the manner prescribed, subpoena any person to appear as a witness at such proceedings or enquiry at the time and place specified in the subpoena in order to answer questions or to produce any document or thing under his or her control which is relevant to the matter in question; and
  - (b) call any person present at such proceedings or enquiry as a witness and administer an oath or affirmation to him or her.
- (2) At any disciplinary proceedings or enquiry referred to in subsection (1) the provisions of the Criminal Procedure Act, 1977 (Act [No. 51 of 1977](#)), relating to evidence and witnesses which are applicable in connection with criminal proceedings in a magistrate's court, except paragraph (a) of the proviso to section 217(1) of that Act, shall *mutatis mutandis* apply.
- (3) Any person who has been subpoenaed to appear or to produce any document or thing at any disciplinary proceedings or enquiry referred to in subsection (1) and who -
- (a) fails to appear at the time and place specified in the subpoena or fails to remain in attendance at the proceedings or enquiry until he or she has been lawfully excused from further attendance;
  - (b) refuses to take an oath or to make an affirmation at the request of the person presiding at the proceedings or enquiry;
  - (c) refuses or fails to produce a document or thing which he or she has been lawfully required to produce,
- shall, unless he or she shows sufficient cause for such failure or refusal, be guilty of an offence and liable on conviction to a fine not exceeding N\$4 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.
- (4) Any witness at any disciplinary proceedings or enquiry who, having been duly sworn or having made an affirmation, gives a false answer to any question put to him or her or makes a false statement knowing such answer or statement to be false, shall be guilty of an offence and liable on conviction to the penalty that may be imposed for perjury.

[\[section 20 substituted by Act 3 of 1999\]](#)

## 21. Representation at disciplinary proceedings or enquiry

At any disciplinary proceedings or enquiry held in terms of this Act the member in respect of whom the proceedings or enquiry is held, may be assisted and represented by a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act [No. 33 of 1995](#)).

[Section 21 is amended by Act 3 of 1999. There are changes to the heading which are not indicated by amendment markings. The Legal Practitioners Act is Act [15 of 1995](#), not Act [33 of 1995](#).]

## 22. Members absolved from prosecution under other laws after trial under this Act

Nothing in this Act contained shall be construed as preventing a member from being prosecuted other than under the provisions of this Act in all cases in which he or she would be liable to be so prosecuted, but no member who has been acquitted or convicted of any offence under this Act, shall be liable to be again tried for any offence arising from the same facts and circumstances.

## 23. Suspension of members

- (1) Subject to subsections (2) and (3), the Inspector-General may suspend any member from his or her office -
  - (a) pending his or her trial for a criminal offence;
  - (b) pending an enquiry under [section 8](#)(1) as to his or her fitness to remain in the Force or to retain his or her rank;
  - (c) pending the institution of disciplinary proceedings against him or her in terms of [section 18](#); or
  - (d) after his or her conviction of an offence, whether under this Act or otherwise.
- (2) The Inspector-General shall suspend a member from office during any period which he or she is under arrest or detention or is serving a term of imprisonment.
- (3) Except in a case contemplated in subsection (2), or where it is in the interest of the Force that the member be immediately suspended, the Inspector-General shall, at least seven days before suspension of a member, conduct a hearing at which the member concerned shall be given an opportunity to make representations as to why he or she should not be suspended.
- (4) During his or her suspension a member shall be deprived of the powers, functions and authority vested in him or her as a member, but he or she shall continue to be subject to the same responsibilities, discipline and penalties as if he or she had not been suspended.
- (5) The Inspector-General may at any time terminate the suspension of a member, other than a member referred to in subsection (2), if -
  - (a) in his or her opinion, the reasons for the suspension have lapsed; or
  - (b) in his or her opinion, no valid cause exists for the suspension; or
  - (c) the commanding officer of the member has recommended to the Inspector-General the termination of the suspension,but the termination of the suspension shall not affect any proceedings instituted against a member on a charge of misconduct or on a criminal charge.
- (6) Where the conviction of a member suspended in terms of subsection (1) or (2) is reversed on appeal or review, the Inspector-General may -
  - (a) reinstate such member with full remuneration with effect from the date of his or her suspension; or



- (b) cause an inquiry to be instituted in terms of [section 8\(1\)](#) into the suitability of reinstating such member

[\[section 23 substituted by Act 3 of 1999\]](#)

#### **24. Salary, allowances, privileges and benefits of suspended member**

- (1) Any member who has been suspended from office shall, in respect of the period of his or her suspension, not be entitled to any salary, wage, allowance, privilege or benefit to which he or she would otherwise have been entitled as a member if he or she had not been suspended, except to the extent as the Minister may at the request of such member direct otherwise.

[\[subsection \(1\) amended by Act 3 of 1999\]](#)

- (2) If a member who was suspended is, pursuant to any trial, disciplinary proceedings or enquiry, reduced in rank, he or she shall in respect of the period of his or her suspension, be paid the salary or wages and allowances applicable to the rank to which he or she is reduced, but if in respect of such period he or she was in terms of subsection (1) paid any salary, wages or allowances' in excess of the salary or wages and allowances applicable to the rank to which he or she is reduced, the Minister may, in consultation with the Treasury, allow such member to keep the excess.

### **Chapter IV GENERAL**

#### **25. Remuneration of members and conditions of service of certain members**

- (1) All members, except members of the Reserve Force who by agreement receive no remuneration for their services, shall be paid salaries, wages or allowances in accordance with the provisions of the Public Service Act, 1980 ([Act 2 of 1980](#)).

[\[The Public Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995.\]](#)

- (2) Notwithstanding the provisions of subsection (1) and of any other law, the Inspector-General may -
  - (a) after consultation with and on the recommendation of the Public Service Commission; and
  - (b) with the approval of the Treasury,pay to any member a higher salary, wage or allowance than the salary, wage or allowance so payable to him or her.
- (3) The Inspector-General may, subject to the regulations and notwithstanding the fact that members of the Reserve Force receive no remuneration for their services -
  - (a) on the recommendation of the Public Service Commission; and
  - (b) with the approval of the Treasury,prescribe conditions of service (including remuneration for certain services rendered), in respect of the Reserve Force and temporary and auxiliary members.
- (4) Members of the Reserve Force who receive no remuneration for their services in the Force shall not by reason of the fact that they receive no such remuneration, be regarded as not being in the service of the State.

#### **26. Salary or allowance may not be assigned or attached**

A member shall not, without the approval of the Inspector-General, assign any salary or allowance payable to him or her in terms of this Act, or any portion thereof, and such salary, allowance or portion thereof shall not be liable to be seized or attached under or by virtue of any judgement or order of any court, other

than a garnishee order, nor shall the same pass under or by virtue of any order made for the sequestration of the estate of any such member.

## 27. Members to place all their time at disposal of State

- (1) Unless otherwise provided in this Act -
  - (a) every member shall place all his or her time at the disposal of the State;
  - (b) no member shall perform or engage himself or herself to perform any remunerative work outside his or her employment in the Force; and
  - (c) no member may claim as of right additional remuneration in respect of any official duty or work which he or she is required by any competent authority to perform.
- (2) Notwithstanding the provisions of subsection (1), the Minister may grant permission to a member to perform or engage himself or herself to perform remunerative work outside his or her employment in the Force.
- (3)
  - (a) Where a member receives any remuneration, allowance or other reward whatsoever in connection with the performance of his or her work in the Force, other than in accordance with the provisions of this Act or in contravention of the provisions of subsection (1)(b), such member shall pay to the Force an amount equal to the amount of such remuneration, allowance or reward or, where it does not consist of money, the value thereof, as determined by the Inspector-General, and if he or she fails to do so, the Inspector-General may recover it by way of legal proceedings or in such other manner as the Inspector-General may deem fit: Provided that -
    - (i) there shall be a right of appeal to the Minister against such determination by the Inspector-General; and
    - (ii) the Minister may approve the retaining by a member of the whole or a portion of that remuneration, allowance or reward.
  - (b) If in the opinion of the Inspector-General a member has received any remuneration, allowance or other reward as contemplated in paragraph (a), and such remuneration, allowance or reward is still in his or her possession or under his or her control or in the possession or under the control of some other person on his or her behalf or, if it is money, has been deposited in any bank, the post office savings bank or any building society or other financial institution in his or her name or in the name of some other person on his or her behalf, the Inspector-General may in writing require such member or such other person or such bank, the post office or such building society or financial institution not to dispose thereof or, if it is money, to retain a corresponding sum of money, as the case may be, pending the outcome of any legal steps for the recovery of such remuneration, allowance or reward or the value thereof.
  - (c) Any person who fails to comply with any requirement under paragraph (b), shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

## 28. Missing members

- (1) If a member is missing and the Inspector-General is satisfied that his or her absence arose from the performance of his or her functions in terms of this Act, such member shall for all purposes be deemed to be still employed by the Force from the first day after the day on which such absence commenced until the day on which -
  - (a) he or she again reports for duty; or
  - (b) in the opinion of the Inspector-General, he or she should have reported for duty; or
  - (c) a competent court issued an order whereby the death of such member is presumed.

- (2) The salary or wages and allowances accruing to a member during his or her absence contemplated in subsection (1) shall, subject to the provisions of subsection (4), be paid to his or her spouse or, if he or she has no spouse, to his or her other dependants, or to any person who, in the opinion of the Inspector-General, is competent to receive and administer such salary or wages and allowances on behalf of his or her spouse or such other dependants or his or her heirs.
- (3) Payment of any salary or wages and allowances in terms of subsection (2), shall for all purposes be deemed to be payment thereof to the member concerned, and an amount so paid shall not be recoverable by the State from any person.
- (4) Notwithstanding the provisions of subsection (2), the Inspector-General may in his or her discretion direct that only a portion of the salary or wages and allowances of a member be paid in terms of the said subsection or that no portion thereof be so paid.

### **29. Reward for extraordinary diligence or devotion**

The Inspector-General may, with the approval of the Minister, award to any person who is or was a member, for extraordinary diligence or devotion in the performance of his or her duties as such member, such monetary or other reward as he or she considers appropriate in the circumstances.

### **30. Establishment of decorations and medals for members**

The President may establish and introduce decorations and medals, as well as bars, clasps and ribbons in respect of such decorations and medals, which may be awarded by him or her, subject to such conditions as may be prescribed, to any person who is or was a member in respect of his or her services as such member or to any person who has rendered exceptional services to the Force.

### **31. Offences in respect of decorations and medals**

Any person who wears or uses any decoration, medal, bar, clasp or ribbon referred to in [section 31](#), unless he or she is the person to whom such decoration, medal, bar, clasp or ribbon was awarded or has been bequeathed, or who, without the written permission of the Inspector-General uses such decoration, medal, bar, clasp or ribbon, or who wears or uses anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

### **32. False representations as to association with Force**

Any person who, without the approval of the Minister, in connection with any activity carried on by him or her takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or to convey or calculated or likely to lead other persons to believe or infer that such activity is carried on under or by virtue of the provisions of this Act or under the patronage of the Force, or is in any manner associated or connected with the Force, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

### **33. Offences in connection with members and membership of Force**

Any person -

- (a) impersonates a member or makes any statement or does any act calculated falsely to suggest that he or she is a member;
- (b) induces or attempts to induce, or does any act calculated to induce any member to withhold his or her service or to do an act in conflict with his or her duties or to commit a breach of discipline; or

(c) causes or attempts to cause or does any act calculated to cause disaffection amongst members, shall be guilty of an offence and liable on conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[\[section 33 substituted by Act 3 of 1999\]](#)

#### **34. Wearing of uniforms, badges or buttons of the Force**

Any person who wears any uniform, distinctive badge or button of the Force or anything so closely resembling any such uniform, badge or button as to be calculated to deceive, shall, unless -

- (a) he or she is a member entitled by reason of his or her appointment, rank or designation to wear such uniform, badge or button; or
- (b) he or she has been granted permission by the Inspector-General to wear such uniform, badge or button,

be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

#### **35. Interference with members**

- (1) Any person who assaults a member in the execution of his or her duty or functions, or a person assisting a member in the execution of his or her duty or functions, shall be guilty of an offence and liable on conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment.
- (2) Any person who -
  - (a) resists or wilfully hinders or obstructs a member in the execution of his or her duty or functions, or a person assisting a member in the execution of his or her duty or functions; or
  - (b) in order to compel a member to do, or to abstain from doing, any act concerning his or her duties or functions, or on account of such member having done or abstained from doing such an act, threatens or suggests the use of violence against, or restraint upon, such member or any of his or her relatives or dependants or any other person, or threatens or suggests any injury to the property of such member or any of his or her relatives or dependants or any other person,

shall be guilty of an offence and liable on conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment.

[\[section 35 substituted by Act 3 of 1999\]](#)

#### **36. Exemption from tolls**

- (1) Any member who in the exercise of his or her powers or the performance of his or her duties or functions finds it necessary to enter, pass through or go over any wharf, landing place, ferry, bridge, toll-bar, gate or door at or in respect of which any toll, fee or due may be lawfully demanded, shall be exempted from the payment of such toll, fee or due in respect of himself or herself, every person under his or her arrest and any animal, means of transport or article of equipment which he or she may require in the exercise of such powers or the performance of such duties or functions: Provided that if such member is not in uniform, he or she shall, upon a request by any person who may demand such toll, fee or due, disclose his or her identity by producing to such person his or her certificate of appointment referred to in [section 4\(2\)](#).
- (2) Any person who may demand any such toll, fee or due, and who wilfully subjects any such member, person, animal, means of transport or article of equipment to unreasonable delay or detention in respect of the entry to, passage through or going over any such wharf, landing place, ferry, bridge, toll-bar, gate or door, shall be guilty of an offence and liable on conviction to a fine not exceeding

R4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

### **37. Exemption of police clubs from certain taxes, duties and fees**

- (1) No tax, duty or fee (other than customs, excise or sales duties leviable by law), shall be payable in terms of any law in respect of an approved club of the Force contemplated in subsection (2) or in respect of any article on sale at such club.
- (2) The production of an official document signed by the Inspector-General and indicating that the Minister has approved any club for the purposes of this section, shall be *prima facie* proof that it is a club falling under this section.
- (3) For the purposes of this section “club” means any mess or institution of the Force or any premises temporarily or permanently used for providing recreation, refreshment or necessities mainly for members of the Force, or for the families of such.

[\[section 37 amended by Act 3 of 1999\]](#)

### **38. Non-liability for acts done under irregular warrant**

- (1) If any legal proceedings are instituted against any member for any act done in obedience to a warrant purporting to be issued by a magistrate, justice of the peace or other officer authorized by law to issue warrants, that member shall not be liable for any irregularity in the issuing of the warrant or for want of jurisdiction in the person issuing the same, and upon producing the warrant containing the signature of the person purporting to be a magistrate, justice of the peace or such other officer as aforesaid, and upon proof that the acts complained of were done in obedience to the warrant, judgement shall be given in favour of such member.
- (2) A member who in good faith performs any act in accordance with or in the enforcement of any provision purporting to be an enactment of a competent legislative authority, shall, notwithstanding any irregularity in the enactment of or defect in such provision or want of jurisdiction on the part of such legislative authority, be exempt from liability in respect of the performance of that act to the same extent and subject to the same conditions as if such irregularity had not occurred or such defect or want of jurisdiction had not existed.

### **39. Prescription of actions, notification of proceedings, cause of action, and service of certain process**

- (1) Any civil proceedings against the State or any person in respect of anything done in pursuance of this Act shall be instituted within 12 months after the cause of action arose, and notice in writing of any such proceedings and of the cause thereof shall be given to the defendant not less than 1 month before it is instituted: Provided that the Minister may at any time waive compliance with the provisions of this subsection.
- (2) If any notice contemplated in subsection (1) is given to the Inspector-General, it shall constitute notification to the defendant concerned.
- (3) Any process by which any proceedings contemplated in subsection (1) are instituted and in which the Minister is the defendant or the respondent, may be served on the Inspector-General.

### **40. Limitation of liability of the State and members**

If any person is conveyed in or makes use of any vehicle, aircraft or vessel which is the property of the State and which is used by or on behalf of the Force, the State or any member shall not be liable to such person or his or her spouse, parent, child or other dependant for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to property caused by or arising out of or in any way connected with the conveyance of such person in, or the use of such vehicle, aircraft or vessel, unless such person is so conveyed or makes use thereof in or in the interest of the performance of the functions of the

State: Provided that the provisions of this section shall not affect the liability of a member who wilfully causes the said loss or damage.

#### 41. Delegation of powers, duties and functions

- (1) The Minister may, on such conditions as he or she may deem fit, delegate any power, duty or function conferred upon him or her by this Act, excluding any power, duty or function referred to in sections 2, 7(2), 8(3), 19(7), 27(3)(a) and 42, to the Inspector-General or any other member.
- (2) The Inspector-General may, on such conditions as he or she may deem fit, delegate any power, duty or function conferred upon or entrusted to him or her in terms of this Act, to any other member.

[subsection (2) substituted by Act 3 of 1999]

#### 42. Regulations

- (1) The Minister may make regulations as to -
  - (a) the minimum academic qualifications for employment as members, the employment, training, promotion, posting, transfer, leave of absence, resignation, discharge, suspension or reduction in rank of members;
  - (b) the standards of physical and mental fitness and the medical examination of members and their families;
  - (c) the numerical establishment and distribution of the Force, the establishment of police districts and stations, and the various divisions, branches, grades, ranks and designations in the Force;
  - (d) the establishment and maintenance of training institutions or centres for recruits, students and other members, and the instruction, training, discipline and control of such recruits, students and other members at such institutions or centres;
  - (e) the control and functions of laboratories established for the purposes of the Force;
  - (f) the attendance by members of instructional or training courses at institutions or centres other than those established and maintained in terms of this Act;
  - (g) the definition of offences against duty and discipline, and generally the control and discipline of the Force;
  - (h) the deductions to be made from the salaries, wages or allowances of members;
  - (i) the procedure at disciplinary proceedings before officers under this Act and the attendance of witnesses thereat;
  - (j) the assemblage of boards of enquiry constituted under this Act, the procedure of such boards and the attendance of witnesses thereat;
  - (k) appeals in terms of this Act;
  - (l) the charging of officers with misconduct;
  - (m) the provision of stores, arms, ammunition, accessories and other equipment, and of means of transport required for the Force, and the care, safe custody and maintenance thereof;
  - (n) the exercise of their powers and the performance of their duties and functions by members;
  - (o) the design, award (including a posthumous award), use, bequest, care, loss, forfeiture and restoration of any decoration, medal, bar, clasp or ribbon referred to in [section 30](#);
  - (p) the dress and clothing of the Force, and the control or disposal of any article or uniform or equipment by any member;

- (q) returns, registers, records, documents, books, forms and correspondence relating to the Force;
  - (r) the recovery from a member of any deficiency, loss, damage or expense which he or she has unlawfully caused to the State;
  - (s) abandoned, lost or unclaimed property found or taken charge of by, or in the possession of a member;
  - (t) the establishment, management and control of the funds of clubs referred to in [section 37](#);  

**[paragraph (t) amended by Act 3 of 1999]**
  - (u) the control of funds collected or received by members for the benefit of members and ex-members, or their dependants;
  - (v) the general government, control and maintenance of the Force;
  - (w) the retention of rank on retirement or resignation from the Force and the award of honorary ranks;
  - (x) the keeping of registers containing all the necessary information regarding members of the Reserve Force, the duties of officers in charge of police stations regarding members of the Reserve Force, and the nature of service of members of the Reserve Force;
  - (y) generally all other matters which are by this Act required or permitted to be prescribed, or which are necessary or expedient to be prescribed in order to achieve the purposes of this Act.
- (2) Different regulations may be made with reference to -
- (a) members and different classes or categories of members; and
  - (b) different divisions of the Force.

### **43. President may enter into agreements**

The President or the Minister, authorized thereto by the President, may enter into agreements with the Head of State or Minister or other person responsible for the police force of a foreign state in regard to co-operation and mutual aid between the Force and the police force of that state.

### **43A. Criminal Statistics**

- (1) The Inspector-General shall, at such times and in such form as the Minister may direct, submit to the Minister such particulars with respect to offences, offenders and the state of crime as the Minister may require.
- (2) The Minister shall cause a consolidated abstract of the particulars submitted to him or her under subsection (1) to be laid before the National Assembly once a year.

**[section 43A inserted by Act 3 of 1999]**

### **43B. Police Advisory Board**

- (1) There shall be a Police Advisory Board for Namibia, whose function shall be to advise the Minister on general questions affecting the Police.
- (2) The composition and proceedings of the Police Advisory Board shall be as prescribed by the Minister.

**[section 43B inserted by Act 3 of 1999]**

### 43C. Municipal Police Service

- (1) Any local authority council of a category contemplated in subsection (2) may, subject to this Act, establish a municipal police service
- (2) The Minister may make regulations regarding the establishment of a municipal police service, including which categories of local authority councils may establish such a service and the powers and functions of such a service and of the members thereof.
- (3) The Minister shall prescribe which provisions of this Act shall apply to a municipal police service established in terms of subsection (1), and may, for the purpose of such application, make such modifications to any such provision as the Minister may consider necessary.
- (4) The Inspector-General shall determine the minimum standards of training that the members of a municipal police service shall undergo.
- (5) Legal proceedings in respect of any alleged act performed under or in terms of this Act or any other law, or an alleged failure to do anything which should have been done in terms of this Act or any other law by a member of a municipal police service, shall be instituted against the local authority council.
- (6) The establishment of a municipal police service shall not derogate from the functions of the Force or the powers, duties or functions of a member in terms of this Act or any other law.

[\[section 43C inserted by Act 3 of 1999\]](#)

### 44. Application of Act

This Act shall apply to all members, whether such members are serving within or outside Namibia, and if it is necessary to enforce this Act outside Namibia, any sentence, fine or penalty pronounced or imposed for the purpose of such enforcement shall be as valid and effective as if it had been pronounced or imposed in Namibia.

### 45. Repeal or amendment of laws, and savings

- (1) Subject to the provisions of subsection (2), the laws specified in Schedule 2 to this Act are hereby repealed or amended to the extent set out in the third column of the said Schedule.

[\[subsection \(1\) amended by Act 3 of 1999\]](#)

- (2) Any regulation, direction, rule, notice, approval or appointment made, issued or given or anything done under any provision of any law repealed or amended by subsection (1), shall be deemed to have been made, issued, given or done under the corresponding provision of this Act.
- (3) For the purposes of this Act -
  - (a) the regulations -
    - (i) in force by virtue of the provisions of subsection (2) shall be construed in accordance with the provisions of this Act, in so far as they relate to those provisions, unless it would in any particular case be obviously inappropriate;
    - (ii) promulgated under Government Notice R.203 of 1964, as amended, are hereby amended -
      - (aa) by the insertion after subregulation (1) of regulation 3 of the following subregulation:
 

“(2) The number and grading of posts in the various branches or divisions shall, with due regard to the provisions of subregulation (1), be determined by the Inspector-General in consultation with the Minister.”;



- (bb) by the substitution for subparagraphs (i), (ii), (iii) and (iv) of paragraph (a) of subregulation (1) of regulation 8 of the following subparagraphs:
  - “(i) Inspector-General;
  - (ii) deputy Inspector-General;
  - (iii) commissioner;
  - (iv) deputy commissioner;” and
- (cc) by the deletion of paragraph (a) of subregulation (2) of regulation 8;
- (b) the provisions of subparagraph (ii) of paragraph (a) of this subsection shall be deemed to be regulations made under section 42 of this Act;
- (c) the Inspector-General may adjust any form prescribed or issued under such regulations in so far as it is necessary to give effect to the provisions of this Act.

#### 46. Interpretation of laws

Subject to the provisions of this Act, any reference in any law in force at the commencement of this Act to

- (a) the South West African Police, shall be construed as a reference to the Namibian Police;
- (b) the Commissioner of the South West African Police, shall be construed as a reference to the Inspector-General; and
- (c) a member of the South West African Police, shall be construed as a reference to a member of the Namibian Police.

#### 47. Short title

This Act shall be called the Police Act, 1990.

### Schedule 1 (Section 4(2B))

#### OFFENCES

[Schedule 1 inserted by Act [3 of 1999](#)]

Murder

Culpable homicide involving an assault

Malicious damage to property

Public violence

Kidnapping

Child stealing

Rape

Indecent assault

Theft-if a fine of more than N\$100 has been imposed

Illegal hunting of game

Robbery

Assault with intent to cause grievous bodily harm

Arson

Breaking or entering any premises, whether under common law or a statutory provision, with intent to commit an offence

Receiving stolen property knowing it to have been stolen

Fraud

Forgery or uttering a forged document knowing it to have been forged

Any offence relating to coinage

Corruption

Obstructing the ends of justice

An offence under any law relating to illicit dealing in, selling or possession of unwrought precious metals or rough or uncut precious stones

An offence under any law relating to illegal dealing in, possession, conveyance or supply of dependence producing drugs

An offence under the Controlled Game Products Proclamation, 1980 (Proclamation No. AG 42 of 1980)

Any conspiracy, incitement or attempt to commit any offence mentioned in this Schedule.

## Schedule 2 (Section 45(1))

### REPEAL OR AMENDMENT OF LAWS

[Schedule re-numbered by Act [3 of 1999](#)]

No. and year of law	Short title	Extent of repeal or amendment
Act <a href="#">19 of 1939</a>	Police (South West Africa) Act, 1939	The repeal of so much as is unrepealed.
Act <a href="#">26 of 1956</a>	Explosives Act, 1956	The amendment of section 1 by the substitution for the definition of "Minister" of the following definition: " 'Minister' means the Minister of Home Affairs;".
Act <a href="#">7 of 1958</a>	Police Act, 1958	The repeal of the whole.
Act <a href="#">75 of 1969</a>	Arms and Ammunition Act, 1969	The amendment of section 1 by the substitution for the definition of "Minister" of the following definition: " 'Minister' means the Minister of Home Affairs;".

No. and year of law	Short title	Extent of repeal or amendment
Proclamation AG. 9 of 1981	Police Amendment Proclamation, 1981	The repeal of the whole.
Proclamation AG. 21 of 1983	Police Amendment Proclamation, 1983	The repeal of the whole.
Act <a href="#">16 of 1987</a>	Second Police Amendment Act, 1987	The repeal of the whole.
Act <a href="#">20 of 1987</a>	Police Amendment Act, 1987	The repeal of the whole.
Proclamation AG. 25 of 1989	Second Law Amendment (Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election) Proclamation, 1989	The amendment of the Annexure by the deletion of the entries relating to the Police Act, 1958.