



Tuvalu

POLICE ACT

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Tuvalu

POLICE ACT

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Tuvalu

POLICE ACT

**AN ACT TO PROVIDE FOR THE ORGANISATION, DISCIPLINE,
POWERS AND DUTIES OF THE TUVALU POLICE FORCE AND OF
SPECIAL CONSTABLES AND FOR MATTERS INCIDENTAL THERETO¹**

Commencement [31st August 1965]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Police Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**administrative officer**” means an Administrative Officer Class 1, 2, 3, 4 or 5 in the public service;

“**Commissioner of Police**” means the person for the time being appointed Commissioner of Police under section 159(5)(a) of the Constitution;²

“**court**” means court of competent jurisdiction;

“**Force**” means the Tuvalu Police Force established by this Act;

“**government medical officer**” includes any medical officer within the meaning ascribed to that term by section 2 of the Medical and Dental Practitioners Act³;

“**officer in charge of police**” means the police officer appointed by the Commissioner of Police to be in charge of any police station; and

“**police officer**” means any member of the Force.

PART II - CONSTITUTION AND ADMINISTRATION

3 Establishment of the Force

There is hereby established in Tuvalu a force of police to be called the Tuvalu Police Force.

4 Enrolment and composition of the Force

The Force shall be formally enrolled and shall consist of the Commissioner of Police and such other members and ranks and grades of subordinate officers as may from time to time be appointed under this Act.

5 Former members of the Gilbert and Ellice Islands Colony Constabulary to remain police officers

Every member of the Gilbert and Ellice Islands Colony Constabulary as heretofore existing in Tuvalu shall be deemed to have become a police officer in the same or equivalent rank as he was serving in the said Gilbert and Ellice Islands Colony Constabulary at the time of the coming into operation of this Act and shall continue to serve as a police officer in such rank or other rank to which he may be promoted or reduced for the remainder of the period of service for which he was under engagement in the said Gilbert and Ellice Islands Colony Constabulary at the said time.

6 Functions of the Force

The Force shall be employed in and throughout Tuvalu for the maintenance of law and order, the preservation of the peace, the protection of life and property, the prevention and detection of crime and the enforcement of all laws and regulations with which it is directly charged; and the Force shall be entitled for the performance of such duties to carry arms.

7 Employment of the Force in times of emergency

- (1) If Her Majesty is at war or it appears to the Minister that a grave threat to the defence or internal security of Tuvalu has arisen, the Minister may direct that the Force or any part thereof —
 - (a) shall be employed as a military force; and

- (b) shall comply with the orders of any military authority that he may specify.
- (2) A direction under subsection (1) that the Force shall comply with the orders of a military authority shall not affect —
 - (a) any powers of appointment, dismissal or disciplinary control of members of the Force conferred upon any person or authority by this Act; or
 - (b) except so far as the Minister may otherwise direct, the command and superintendence of the Force vested in the Commissioner of Police by section 8.

8 General powers of the Commissioner of Police

- (1) The Commissioner of Police shall have the command, superintendence and direction of the Force, and, subject to the provisions of this Act and the Constitution, may make such appointments, promotions and reductions in ranks and grades as he may see fit.
- (2) The Commissioner of Police may from time to time make orders for the general government of police officers in relation to their enrolment, discharge, training, arms and accoutrements, clothing and equipment, classification and particular services, as well as their distribution and inspection and such other orders as he may deem expedient for preventing neglect and for promoting efficiency and discipline on the part of police officers in the discharge of their duties.
- (3) Any act or thing which may lawfully be done, ordered or performed by the Commissioner of Police may, with the authority of the Commissioner of Police, be done, ordered or performed by an Inspector.

9 Administration of the Force

- (1) The administration of the Force throughout Tuvalu shall be vested in the Commissioner of Police.
- (2) The control of the police in any place shall be vested in such police officer as may be appointed by the Commissioner of Police to be in charge thereof; and such officer shall be subordinate to and carry out the orders of the Commissioner of Police in all matters connected with discipline, interior economy and training of the members of the Force under him and for the prevention, detection and prosecution of crime.

10 Officers in charge of police to keep prescribed books and to render returns

Every officer in charge of police shall keep such books and records and shall render such returns to the Commissioner of Police as the Commissioner of Police may from time to time direct.

11 Stores

Every officer in charge of police shall be responsible for all public stores and public moneys issued and delivered for the use of the detachment under his command and shall account for the same to the Commissioner of Police.

PART III - APPOINTMENT, ENROLMENT, SERVICE AND DISCHARGE

12 The Commissioner of Police

There shall be a Commissioner of Police who shall be appointed by the Governor-General acting in accordance with the advice of the Public Service Commission in accordance with section 159(5) of the Constitution.

13 Appointment of other police officers

- (1) Police officers of or above the rank of Inspector may be appointed, removed and disciplined in the same manner, with any necessary modifications, as members of the Public Service under section 155 of the Constitution.
- (2) Police officers below the rank of Inspector shall be appointed by the Commissioner of Police.

14 Oath on enrolment

- (1) Every member of the Force shall on being enrolled make and sign before some person for the time being authorised by law to administer oaths, or before the Commissioner of Police, in such manner as such member may declare most binding on his conscience, an oath or an affirmation in the following form —

“I DO SWEAR
by Almighty God
(or)
SOLEMNLY AND SINCERELY AFFIRM

that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, and that I will faithfully serve Her Majesty the Queen, Her Heirs and Successors, during my service in the Tuvalu Police Force: that I will subject myself to all Acts, orders and regulations relating to the said Police now in force or which may from time to time be in force and will discharge all the duties of a police officer according to law, without fear or favour, affection or ill-will.”

- (2) Every such person shall on enrolment and before taking the oath or making the affirmation required by the preceding subsection answer truly any question which may be put to him as to his previous service in any of Her Majesty’s Forces or constabulary and as to whether he has at any time been convicted of any offence.
- (3) Any person who wilfully makes a false statement in reply to a question put to him under the preceding subsection shall be liable to a fine of \$20 and to imprisonment for 1 month.

15 Resignation

Any police officer below the rank of Inspector may resign from the Force at any time by giving 6 months’ notice in writing of his intention so to do to the Commissioner of Police:

Provided that in any case the Commissioner of Police may in his discretion waive the provisions of this section regarding the period of notice to be given.

16 Prolongation of service in case of war, etc.

Any police officer whose period of service expires during a state of war, insurrection or hostilities may be retained and his service prolonged for such further period as the Minister, acting in his discretion, may direct.

17 Discharges

Any police officer below the rank of Inspector may be discharged by the Commissioner of Police at any time —

- (a) if the Commissioner of Police considers that he is unlikely to become or has ceased to be an efficient police officer;
- (b) if he is pronounced by a medical officer to be mentally or physically unfit for further service;
- (c) on reduction of establishment;
- (d) if the Commissioner of Police considers his discharge is necessary in the public interest:

Provided that no police officer shall be so discharged unless he has been given 1 month's notice in writing of the intention to so discharge him or 1 month's pay in lieu of such notice.

18 Rules for reckoning service for purposes of discharge

In reckoning the service of any police officer discharged in accordance with the last preceding section there shall in all cases be excluded therefrom all periods during which he has been absent from duty for any of the following reasons —

- (a) imprisonment for any cause save that of detention awaiting any trial which resulted in his acquittal or discharge, or which was determined by the entry of a *nolle prosequi*;
- (b) desertion;
- (c) absence without leave.

19 Arms and accoutrements to be delivered up on member ceasing to belong to the Force

- (1) When a police officer ceases to be a member of the Force he shall forthwith deliver up to the person appointed by the Commissioner of Police for that purpose or to the officer in charge of police at the place at which he was last stationed all arms, ammunition, accoutrements, uniform and other appointments which have been supplied to him and which are the property of the Government.
- (2) Any police officer who, having ceased to belong to the Force, fails to deliver up any arms, ammunition, accoutrements, uniform or other appointments as required by this section shall be guilty of an offence and shall be liable to a fine of \$40 and to imprisonment for 3 months and the court convicting such officer may issue a warrant to search for and seize all such arms, ammunition, accoutrements, uniform and other appointments which shall not have been so delivered up.

PART IV - POWERS AND DUTIES OF POLICE OFFICERS

20 Police officers not to engage in other employment

A police officer shall not without the written consent of the Minister engage in any employment or office whatsoever other than in accordance with his duties under this Act.

21 General powers and duties of police officers

- (1) Every police officer shall exercise such powers and perform such duties as are by law conferred or imposed upon a police officer, and shall obey all lawful directions in respect of the execution of his office which he may from time to time receive from his superiors in the Force.
- (2) Every police officer shall be deemed to be on duty at all times and may at any time be detailed for duty in any part of Tuvalu.
- (3) It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient ground exists.

22 Powers to take photographs of accused, etc., or convicted persons

- (1) The officer in charge of police may cause to be taken for use and record in the police registry photographs, descriptions, measurements and finger prints of any person in lawful custody for any offence punishable by imprisonment, whether accused or convicted.
- (2) On the acquittal of any person whose photographs, descriptions, measurements and finger prints have been taken under the provisions of this section, such photographs, descriptions, measurements and finger prints shall be destroyed.
- (3) Any person in lawful custody as aforesaid, who shall refuse to submit in a proper manner to the methods of identification aforesaid, shall be liable to a fine of \$40 and to imprisonment for 3 months and, after conviction, reasonable force may be used to enable such methods of identification as aforesaid to be taken.

23 Powers of police officer to make complaint

It shall be lawful for any police officer to make a complaint or charge against any person before a magistrate or island magistrate and to apply for a summons, warrant, search warrant or such other legal process as may by law issue against any person.

24 Non-liability for act done under authority of warrant

- (1) Where the defence to any suit instituted against a police officer is that the act complained of was done in obedience to a warrant purporting to be issued by a judge, magistrate, island magistrate or a justice of the peace the court shall, upon production of the warrant containing the signature of the judge, magistrate, island magistrate or justice of the peace and upon proof that the

act complained of was done in obedience to such warrant, enter judgment in favour of such police officer.

- (2) No proof of the signature of a judge, magistrate, island magistrate or justice of the peace shall be required unless the court has reason to doubt the genuineness thereof; and where it shall be proved that such signature is not genuine, judgment shall nevertheless be given in favour of such police officer under the last preceding subsection if it is proved that, at the time when the act complained of was committed, he believed on reasonable grounds that such signature was genuine.
- (3) In this section, the term “justice of the peace” bears the meaning ascribed to it in section 2 of the Criminal Procedure Code Act.⁴

25 Power to inspect licences

- (1) It shall be lawful for any police officer to stop and detain any person whom he sees doing any act for which a licence is required under the provisions of any law for the time being in force and to require such person to produce his licence.
- (2) Any person who fails to produce such licence when called upon by a police officer may be arrested without a warrant unless he gives his name and address or otherwise satisfies the police officer that he will duly answer any summons or other proceedings which may be taken against him.

26 Duty of Force to keep order on public roads

- (1) It shall be the duty of police officers —
 - (a) to regulate and control traffic;
 - (b) to divert all or any particular kind of traffic when in the opinion of a police officer it is in the public interest so to do;
 - (c) to keep order on public roads, streets, thoroughfares and landing places, and at other places of public resort or places to which the public have access; and
 - (d) to prevent obstruction on the occasions of assemblies and processions on the public roads and streets, and in any case when any road, street, thoroughfare or landing place may be thronged or may be liable to be obstructed.
- (2) Every person who opposes or disobeys any lawful order given by any police officer in the performance of his duty under this section shall be liable to a fine of \$40 or to imprisonment for 3 months.
- (3) Any person who opposes or disobeys any lawful order given by a police officer in the performance of his duty under this section may be arrested without a warrant unless he gives his name and address or otherwise satisfies

a police officer that he will duly answer any summons or other proceedings which may be taken against him.

27 Disposal of unclaimed property

It shall be the duty of every police officer to take charge of all unclaimed property, and such unclaimed property shall then be disposed of, or otherwise dealt with, in accordance with regulations made under this Act by the Minister.

28 Power of police to enter and break open premises in case of fire

Any police officer may enter and if necessary break into any building being or reasonably supposed to be on fire, or any building or land adjoining or near thereto, without the consent of the owner or occupier thereof, and may do all such acts and things as he may deem necessary for extinguishing fire in any such building or for protecting the same or rescuing any person or property therein from fire.

PART V - DISCIPLINE

29 Offences by police officers triable by the court

- (1) Any police officer who —
 - (a) being cognisant of any mutiny or sedition amongst the Force does not use his utmost endeavours to suppress such mutiny or sedition; or
 - (b) being cognisant of any intended mutiny or sedition amongst the Force does not without delay give information thereof to his superior officer; or
 - (c) being present at any assemblage tending to riot does not use his utmost endeavours to suppress such assemblage; or
 - (d) deserts; or
 - (e) persuades, procures, assists, or attempts to persuade, procure or assist any police officer to desert; or
 - (f) knowing that any police officer has deserted or intends to desert does not without delay give information to his superior officer; or
 - (g) strikes or offers violence to his superior officer, such officer being in the execution of his duty,

shall be liable to a fine of \$100 and to imprisonment for 12 months.

- (2) No police officer shall be found guilty of the offence of desertion unless the court is satisfied that there was an intention on the part of such officer not to return to the Force.

- (3) Upon reasonable suspicion that any person is a deserter any police officer may, notwithstanding the provisions of section 30 (2), apprehend him without warrant and forthwith bring him before a magistrate's court.

30 Offences against discipline

- (1) It shall be lawful for the Minister to make regulations prescribing what acts and omissions by members of the Force shall constitute offences against discipline.
- (2) Any police officer of or above the rank of corporal may arrest without warrant any police officer not being an officer of his own or of a superior rank who commits or is reasonably suspected of having committed an offence under section 29 or of any of the following offences against discipline —
 - (i) disobedience to lawful orders;
 - (ii) obscene, abusive or insulting language;
 - (iii) assault on another member of the Force;
 - (iv) disorderly behaviour;
 - (v) conniving at or being accessory to any of the above offences.
- (3) A police officer effecting an arrest under the provisions of this section shall forthwith bring the accused before the Commissioner of Police or the officer in charge of police.

31 Punishments which may be awarded by certain officers

- (1) A police officer of or above the rank of Inspector or an officer of rank superior to the accused appointed for the purpose by the Commissioner of Police may inquire into the truth of any charge alleging an offence against discipline against a police officer below the rank of Sergeant and, if his decision is against the accused, may report his decision to the Commissioner of Police for action under section 32 or impose on him any 1 or more of the following punishments —
 - (i) admonishment;
 - (ii) reprimand;
 - (iii) confinement to quarters for 14 days with or without extra duties;
 - (iv) fine of 4 days' pay.
- (2) A police officer shall not be convicted under subsection (1) unless the charge has been read and investigated in his presence and he has been given sufficient opportunity to cross-examine the witnesses called against him, to give evidence or make a statement himself and to call witnesses on his behalf.
- (3) Any police officer who has been convicted under subsection (1) may appeal to the Commissioner of Police within 7 days of such conviction.

- (4) The Commissioner of Police may at any time before it is carried into execution confirm, vary or quash any punishment imposed under this section and may order either generally or in any particular case that any such punishment shall be reported to him before being carried into execution:

Provided that the Commissioner of Police shall not increase any punishment without giving the accused an opportunity of being heard.

32 Special powers of the Commissioner of Police

The Commissioner of Police may, in respect of any conviction under section 31, impose any 1 or more of the punishments mentioned in section 31, or any 1 or more of the following punishments —

- (i) severe reprimand;
- (ii) forfeiture of pay not exceeding the amount of pay for 14 days which may be due to the convicted police officer;
- (iii) forfeiture of any reward or allowances which the convicted police officer may have earned in the Force;
- (iv) reduction in rank or grade;
- (v) dismissal:

Provided that any police officer who has been punished by dismissal, reduction in rank or grade or forfeiture as aforesaid may within 7 days after the decision of the Commissioner of Police has been communicated to him appeal to the Public Service Commission in accordance with section 157(4) of the Constitution.

33 Powers of interdiction

- (1) The Commissioner of Police may at any time interdict from duty any police officer below the rank of Inspector pending an enquiry under section 31 into any disciplinary offence of which he is charged or pending trial or enquiry into any offence, whether under this Act or any other law, of which he is charged before a court.
- (2) A police officer interdicted from duty shall not by reason of such interdiction cease to be a member of the Force:

Provided that the powers, privileges and benefits vested in him as a member of the Force shall be in abeyance during his interdiction but he shall continue subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been interdicted.

- (3) Save as hereinafter provided a police officer shall not receive pay for any period during which he is interdicted from duty.
- (4) A police officer interdicted from duty shall be allowed to receive such proportion of his pay not being less than one half as the Minister may think

fit; and on the termination of any period of interdiction from duty of a police officer, the Minister may, if he thinks fit, direct the whole or any part of the pay stopped under this section to be paid to such police officer.

34 Power of officer holding enquiry

- (1) Every police officer empowered to make enquiry under this Part shall have power to summon and examine witnesses on oath or affirmation and to require the production of all documents relevant to such enquiry and to adjourn any hearing from time to time; and in every case which is required under the provisions of section 31 to be reported to the Commissioner of Police the proceedings and evidence shall be recorded in writing.
- (2) Any person summoned as a witness under subsection (1) who fails to attend at the time and place mentioned in the summons or on adjournment, or refuses to answer any question that is lawfully put to him, shall be liable to a fine of \$10 and to imprisonment for 1 month:

Provided that nothing contained in this section shall render any person compellable to answer any question in respect of any matter which would have been protected from disclosure on the ground of privilege if the proceedings had been held in any court.

35 Dismissal and reduction in rank of police officers convicted

The Commissioner of Police may reduce in rank or grade or may dismiss from the Force any police officer below the rank of Inspector who has been convicted by a court in respect of any offence whether under this Act or otherwise, unless such member of the Force has successfully appealed from such conviction.

36 Loss or damage to arms and accoutrements to be made good by stoppage of pay

If any police officer below the rank of Inspector pawns, sells, loses by neglect, makes away with or wilfully damages any arms, ammunition, accoutrement, uniform or other appointment supplied to him or any government property committed to his charge he may, in addition to or in lieu of any other punishment, be ordered to make good the amount of such loss or damage, and such amount may be recovered by stoppage from his pay.

37 Pay not to accrue during absence without leave or imprisonment

Pay shall not accrue to any police officer below the rank of Inspector in respect of any period during which he is absent from duty without reasonable cause or excuse, or is undergoing any sentence of imprisonment:

Provided that in any case the Commissioner of Police may in his discretion authorise the payment of such proportion of pay, not being more than two-thirds as he may think fit.

38 Establishment of Police Fund

- (1) All fines imposed on any police officers under the provisions of this Act for any offence against discipline shall be paid to the Accountant to be placed to the credit of a fund to be called the “Police Fund”.
- (2) Payment shall not be made from the Police Fund except upon the authority of the Commissioner of Police.
- (3) The Commissioner of Police may, in his discretion, sanction payments from the Police Fund for any of the following purposes —
 - (a) assistance to the wives or families of deceased police officers or to any such police officer discharged from the Force as medically unfit for further service;
 - (b) contribution towards prizes to be given at athletic meetings, assault at arms and similar events organised by or for the benefit of the Force;
 - (c) purchase of ammunition for the encouragement of range practice among police officers;
 - (d) payments to police officers as rewards for meritorious acts or service in the execution of duty, if such payments are not met from public funds;
 - (e) expenditure for the benefit and advancement of authorised recreation and sport and other branches of police activity organised within the Force;
 - (f) any other purpose which the Commissioner of Police considers to be for the general welfare of members of the Force.

39 Methods of dealing with offences or misconduct by senior police officers

- (1) The provisions of the Public Service Commission Rules⁵ shall apply to the retirement or discharge of a police officer of or above the rank of Inspector and any offence or misconduct committed by a police officer of or above such rank in regard to which criminal proceedings are not instituted before a court shall be dealt with and punished in accordance with such Rules.
- (2) The provisions of such Rules having reference to suspension and interdiction shall apply in the case of a police officer of or above the rank of Inspector not only in respect of offences and misconduct referred to in subsection (1) but also in respect of any offence in regard to which criminal proceedings are instituted or about to be instituted in a court.

- (3) A police officer of or above the rank of Inspector suspended or interdicted under the provisions of such Rules shall not by reason of such suspension or interdiction cease to be a member of the Force:

Provided that the power, privileges and benefits vested in him as a member of the Force shall be in abeyance during the period of such suspension or interdiction but he shall remain subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been suspended or interdicted.

- (4) A police officer of or above the rank of Inspector convicted of an offence by a court may be dismissed in accordance with the provisions of such Rules.

PART VI - SERVICE OF POLICE OFFICERS OUTSIDE TUVALU AND OF OFFICERS FROM NEIGHBOURING TERRITORIES WITHIN TUVALU

40 “Neighbouring territory” defined

In this Part, “**neighbouring territory**” means any territory which the Minister may by notice declare to be a neighbouring territory for the purposes of this Act:

Provided that no such notice shall be published in respect of any territory unless and until the Minister is satisfied that satisfactory arrangements have been or will be made for the inclusion in the law of that territory of provisions reciprocal to those of this Part.

41 Power to order service outside Tuvalu

The Minister may, on the application of the government of a neighbouring territory, order such number of police officers as he may think fit to proceed to such territory for service therein.

42 Effect of punishment of police officer In neighbouring territory

Where a police officer is punished under the law of a neighbouring territory, or under any provisions of this Act applied by the law of such territory to a police officer whilst serving therein, for any offence (whether against discipline or otherwise) committed while such officer was serving therein in pursuance of an order under section 41 he shall be deemed for all purposes to have been so punished in Tuvalu for a like offence committed within Tuvalu.

43 Provisions as to officers of neighbouring territory serving in Tuvalu

Whenever any police officers from the police force of a neighbouring territory are present in Tuvalu in response to an application made by the Minister for the purpose of assisting the Force in a temporary emergency, the following provisions shall have effect with regard to such officers —

- (a) they shall be under the order of their own officers present with them (if any), subject, however, to the command of the senior officer of Tuvalu;
- (b) they shall have and may exercise the powers, and shall be liable to perform the duties of police officers of equivalent rank in the Force, and shall for those purposes be deemed to be members of the Force;
- (c) the provisions of any Act or other law affecting the discipline, punishment or terms and conditions of service of such officers whilst serving in such neighbouring territory shall, so far as circumstances admit, be applied in Tuvalu as if such Act or other law were part of the general law of Tuvalu:

Provided that —

- (i) no such law as aforesaid shall be interpreted in its application within Tuvalu as conferring any power on any officer of the Force to punish any officer of the police force of the neighbouring territory for any offence against discipline;
 - (ii) where any such law confers on a court or magistrate of the neighbouring territory jurisdiction to try and punish any offences as aforesaid, such jurisdiction may be exercised by a court or magistrate possessing comparable jurisdiction within Tuvalu;
- (d) any contract of service between any such officer and the government of the neighbouring territory may be enforced in the same manner and with the like effect as if it were made between the officer and the Government.

PART VII - SPECIAL CONSTABLES**44 Minister may establish a force of special constables**

The Minister may, if he thinks fit, establish a force of special constables and authorise the Commissioner of Police to enrol in such force such persons as may offer their services and whose services he accepts, subject to the conditions hereinafter appearing or as may be prescribed.

45 Power to appoint, suspend and determine services of special constables in particular circumstances

- (1) Notwithstanding the provisions of section 44, where it shall appear to him that any unlawful assembly or riot or disturbance of the peace has occurred, or may reasonably be apprehended and that the members of the Force ordinarily employed for preserving the peace are not sufficient for its preservation or for the security of property in the area where such unlawful assembly or riot or disturbance of the peace has occurred or is apprehended, any magistrate or island magistrate having jurisdiction in such area, on the application of a police officer of or above the rank of Inspector or an officer in charge of police, may appoint by writing in the form numbered 1 in the Schedule any persons to be special constables in such number, for such time and within such area as he may consider necessary.
- (2) The magistrate or island magistrate by whom any special constable has been appointed under subsection (1) or, in his absence or incapacity, any magistrate or island magistrate exercising jurisdiction in the area in which such special constable has been appointed is hereby empowered to suspend or determine the appointment of any special constable if he considers such appointment can be safely suspended or determined and shall forthwith transmit notice thereof in the form numbered 2 in the Schedule to the special constable concerned.

46 Definition of “special constable”

Save where the context otherwise requires, in this Part “**special constable**” includes any special constable whether enrolled under section 44 or appointed under section 45.

47 Commissioner of Police to command

The Commissioner of Police shall have the command, superintendence and direction of special constables and, subject to the provisions of this Act and to any regulations made thereunder, may make such promotions and reductions in ranks of special constables as he may deem fit.

48 Rank of special constables

- (1) The Minister may appoint any special constable to the rank of Inspector or above.
- (2) The Commissioner of Police may assign to special constables, other than those appointed under subsection (1), such ranks as he may deem fit.

49 Training and duties of special constables

- (1) The Commissioner of Police may call upon any special constable to carry out training of such nature and for such periods as may be prescribed by regulations made under this Act.
- (2) The Commissioner of Police, with the prior approval of the Minister, may call upon any special constable to carry out any duties as a special constable, including full-time duty, on such occasions and for such period as he may deem fit.
- (3) If any special constable on being called upon to carry out any duty or training under the provisions of this section refuses or neglects to serve, he shall for each such refusal or neglect be liable to a fine of \$20, unless he satisfies the court that he was prevented by sickness or such other unavoidable cause as may in the opinion of the court be sufficient excuse.

50 Powers and duties of special constables

- (1) Section 14 shall apply mutatis mutandis to every special constable on being enrolled as it applies to every member of the Force save that in the form of oath or declaration provided for in subsection (1) of that section references to the force of special constables shall be substituted for references to the Force and references to a special constable substituted for reference to a police officer.
- (2) Every special constable while on duty or during training shall have the same powers, privileges and protection and shall be liable to perform the same duties as any police officer:

Provided however that a special constable shall not be liable for service outside Tuvalu under Part VI.
- (3) Every special constable shall be liable to the same discipline and penalties and be subordinate to the same authority as any police officer.

51 Regulations relating to special constables

The Minister may make regulations for the better carrying out of the provisions of this Part, and without derogation from the generality of the foregoing power may provide in such regulations for the pay and allowances and for the training of special constables.

52 Clothing and equipment for special constables

The Commissioner of Police may provide at the public expense for the use of special constables uniforms, badges, equipment, arms and other necessary articles for the proper carrying out of the duties of their office.

53 Illness, bodily injury, damage to property, or death

- (1) If any special constable is temporarily incapacitated by reason of any wound or injury received or sickness contracted by him in the performance of any duty or training by him under the provisions of this Act and such wound or injury is received or such sickness is contracted in the actual discharge of his duty as a special constable and without his own default, he shall be eligible to receive free medical treatment therefor and full pay for the period of such incapacity.
- (2) If any special constable receives any permanent disablement attributable to any wound or injury received or sickness contracted by him in the circumstances referred to in subsection (1), the Minister may award to such special constable such gratuity or pension as to the Minister may seem just.
- (3) If any special constable is killed or dies as a result of any wound or injury received or sickness contracted by him in the circumstances referred to in subsection (1), the Minister may grant to the dependants of such special constable such pension allowance as to the Minister may seem fit.
- (4) If the property of any special constable is damaged during the performance of any duty or training by him under the provisions of this Act, such property being damaged without his default and on account of circumstances specifically attributable to the nature of his duties as a special constable, the Minister may award such special constable such compensation as to the Minister may seem just.
- (5) The Minister shall not award to any special constable or to the dependants of any special constable any gratuity, pension or allowance under the provisions of subsection (2) or (3) if such special constable, or such dependants is or are eligible to receive a gratuity, pension or other allowance in respect of the same disablement or death under the provisions of the Provident Fund Act.⁶
- (6) A special constable shall not in respect of such appointment be regarded as a workman for the purpose of the Workmen's Compensation Act.⁷
- (7) A gratuity, pension, allowance or any compensation paid under the provisions of this section shall not be assignable or transferable except for the purpose of satisfying —
 - (a) a debt due to the Crown; or
 - (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the person to whom the pension, gratuity or other allowance has been granted,

and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due to the Crown.

54 Resignation and termination of appointment

- (1) A special constable may resign his appointment at any time by giving 1 month's notice in writing, in the case of Inspector to the Minister and in all other cases to the Commissioner of Police:

Provided that the Minister or the Commissioner of Police, as the case may be, may waive the provisions of this subsection regarding the period of notice to be given:

Provided further that no resignation shall take effect while the special constable concerned has been called out for full-time duty.

- (2) The Minister, in the case of Inspector and above, or the Commissioner of Police in all other cases may terminate the appointment of any special constable whose services are no longer required and shall forthwith transmit notice thereof in the prescribed form to the special constable concerned.
- (3) Every special constable shall, within 1 week of his resignation or of the receipt of the notice terminating his appointment of service, deliver up in good order (fair wear and tear only excepted) to the nearest police station any form of appointment and other documents of service and any uniform, badge, equipment, arms or other articles which may have been provided for him under this Act; and any special constable who refuses or neglects to make such delivery shall be liable to a fine of \$10 and to pay the cost of any article not so delivered up.

PART VIII - MISCELLANEOUS**55 Power to prosecute under other laws not to be affected**

Nothing in this Act shall exempt any person from being proceeded against under any other Act or law, in respect of any offence made punishable by this Act, or from being liable under any other Act or law to any other or higher penalty or punishment than is provided for such offence by this Act:

Provided that no person shall be punished twice for the same offence.

56 Duty to assist police

It shall be lawful for any police officer to call upon any person to assist him if, whilst acting in the execution of his duty, he is assaulted or resisted or obstructed or in danger of being assaulted or resisted or obstructed and any person so called upon to assist a police officer who without reasonable excuse refuses or neglects to render assistance to the best of his ability shall be liable to a fine of \$40 and to imprisonment for 3 months.

57 Police officers not to join certain associations

- (1) It shall not be lawful for any police officer to be or become a member of —
 - (a) any trade union, or any body or association affiliated to a trade union; or
 - (b) any body or association, the object or one of the objects of which is to control or influence conditions of employment in any trade or profession; or
 - (c) any body or association the object or one of the objects of which is to control or influence the pay, pensions or conditions of service of the Force, other than any body or association which may be constituted and regulated pursuant to regulations made under the provisions of this Act.
- (2) Any police officer who contravenes any of the provisions of this section shall be liable to be dismissed from the Force and to forfeit all rights to any pension or gratuity.
- (3) If any question arises as to whether any body is a trade union or an association to which this section applies the question shall be decided by the Minister, whose decision shall be final and conclusive.

58 Regulations

The Minister may make such regulations as may seem to him expedient for the good order and government of the Force and for carrying into effect any of the purposes or provisions of this Act and, without derogation from the generality of the foregoing, for all or any of the following purposes —

- (a) the numerical establishment of the Force, the conditions of service therein and for the various grades, ranks and appointments therein;
- (b) the duties to be performed by members of the Force and for their guidance in the discharge of such duties;
- (c) the pay, retirement benefits and allowances of members of the Force;
- (d) the description and issue of arms, ammunition, accoutrements, uniforms and necessaries to be supplied under this Act;
- (e) the disposal of any unclaimed property;
- (f) the discipline of members of the Force; and
- (g) all other matters which are by this Act required to be provided or prescribed by regulations.

SCHEDULE

(Section 45)

FORMS

FORM 1 TUVALU

POLICE ACT (Cap. 20.24)

APPOINTMENT OF SPECIAL CONSTABLE

To:of.....

I, the undersigned, under the powers vested in me by Part VII of the Police Act, DO HEREBY APPOINT you to be a special constable until further notice.

Dated at this day of20

SIGNED:

FORM 2 TUVALU

POLICE ACT (Cap. 20.24) (Section 45)

NOTICE TO SUSPEND OR DETERMINE APPOINTMENT OF SPECIAL CONSTABLE

To:of.....

I, the undersigned, under the powers vested in me by Part VII of the Police Act, DO HEREBY GIVE YOU NOTICE that your appointment as a special constable made on theday of.....20*is suspended/is determined with effect from the date hereof.

Dated at this day of20

SIGNED:

*Delete whichever is inapplicable.

ENDNOTES

¹ 1990 Revised Edition, Cap. 70 - Acts 3 of 1965, 8 of 1968, 8 of 1971, 3 of 1972, 3 of 1973, 9 of 1974, 22 of 1974, LN 16/1972, LN 17/1966, LN 22/1976

² References to Chief of Police have been changed by the Law Revision Commissioner to references to the Commissioner of Police, in consequence of section 157 and other provisions of the Constitution which was enacted after and takes precedence over this Act

³ Cap. 28.12

⁴ Cap. 10.05

⁵ Cap. 4.24.2

⁶ Cap. 32.08

⁷ Cap. 40.72