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Government Notice

MINISTRY OF HOME AFFAIRS

No. 184

2002

REGULATIONS FOR MUNICIPAL POLICE SERVICES: POLICE ACT, 1990 (ACT NO. 19 OF 1990)

The Minister of Home Affairs has under section 43C of the Police Act, 1990 (Act No. 19 of 1990) made the Regulations set out in the Schedule.

SCHEDULE

Definitions:-

1. Expressions used in these regulations which are defined in the Police Act, 1990 have the meanings set out in that Act and -

“Chief Executive Officer”, in relation to a municipality, means the person appointed as Chief Executive Officer of the municipality in terms of section 27(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“Head” means a City Police Chief referred to in regulation 5;

“municipal area” means the local authority area of a municipality declared or deemed to be declared under section 3 of the Local Authorities Act, 1992, (Act No. 23 of 1992);

“municipal council” means the municipal council of a municipality referred to in section 6 of the Local Authorities Act, 1992;

“municipality” means a municipality referred to in regulation 2 which has established a municipal police service in terms of that regulation;

“Service”, in relation to a municipality, means the municipal police service established for that municipality pursuant to regulation 2:

Category of Local Authority Councils which may establish a municipal police service

2. The municipal council of a municipality referred to in Part I of Schedule I to the Local Authorities Act 1992, (Act No. 23 of 1992) may make regulations for the establishment of a municipal police service for that municipality to carry out the functions specified in regulation 4 within its municipal area.

Chief Executive Officer responsible for functioning of Service

3. The Chief Executive Officer of a municipality is responsible to the municipal council for the functioning of the Service of that municipality.

Functions of a municipal police service

4. A Service shall have the power to carry out the following functions within the municipal area of the municipal council concerned:

- (a) Traffic policing, subject to the laws relating to road traffic;
- (b) the prevention of crime; and
- (c) the policing of municipal by-laws and regulations of the municipal council concerned.

Head of a municipal police service

5. (1) A municipal council must, upon the recommendation of the Chief Executive Officer, appoint a fit and proper person as City Police Chief to be the Head of the Service of its municipality.

(2) Subject to the directives of the Chief Executive Officer of the municipality, the Head of a Service is responsible for -

- (a) exercising control over the Service in accordance with the objectives, priorities and policies of the municipal council;
- (b) maintaining an impartial, accountable, transparent and efficient Service;
- (c) making recommendations to the municipal council concerning -
 - (i) the fixed establishment of the Service;
 - (ii) the number and grading of posts on that fixed establishment;
 - (iii) the persons to be appointed or promoted to those posts; and
 - (iv) the organising or re-organising of the Service into different components, units or groups;
- (d) maintaining discipline in the Service and ensuring that members of the Service perform their duties and functions in accordance with these regulations and any other regulations in force in respect of the municipality;

- (e) developing and submitting to the municipal council for approval, before the end of each financial year of the council, a plan setting out the priorities and objectives of the Service in relation to the performance of its functions during the following year;
 - (f) preparing and submitting to the Chief Executive Officer annually, not later than one month after the end of the municipal council's financial year, or at any other time required by the Chief Executive Officer, a report on the performance of the functions of the Head and the Service;
 - (g) performing such other functions as may from time to time be assigned to the Head by the Chief Executive Officer.
- (3) The Head may -
- (a) delegate any power conferred upon him or her by these regulations to any other member of the Service or the holder of any other post constituting part of the fixed establishment of the Service; and
 - (b) impose conditions subject to which a delegated power must be exercised.
- (4) The Head -
- (a) is not divested of a power delegated under subregulation (3); and
 - (b) may at any time withdraw or amend the delegation or a decision taken under a delegated power.

Certificate of appointment

6. (1) The Head must issue to every member of the Service a certificate of appointment containing -

- (a) the logo and name of the Service;
 - (b) the full names of the member;
 - (c) the signature of the member;
 - (d) the photograph of the member;
 - (e) the identity number of the member;
 - (f) the date of appointment of the member;
 - (g) the Service number of the member;
 - (h) the rank of the member; and
 - (i) the office stamp of the Chief Executive Officer.
- (2) A certificate of appointment referred to in subregulation (1) -
- (a) is *prima facie* proof of the appointment of the member to which it relates; and
 - (b) must be shown by that member to any person in relation to whom the member seeks to exercise a power or perform a duty in terms of these regulations, if that person requires proof of the member's authority.

Powers and duties of members

7. (1) Subject to the Namibian Constitution and these regulations, and with due regard to the fundamental rights of every person, the members of a Service may

exercise any power conferred upon a member of the Force by the provisions of the laws specified in Column 1 of Annexure A to these regulations to the extent in Column 2 of that Annexure.

(2) In the exercise of the powers referred to in subregulation (1) a member of a Service is liable in respect of acts done or omitted to be done to the same extent as he or she would have been liable in like circumstances if he or she were a member of that Force.

(3) A member of a Service may exercise any power referred to in subregulation (1) outside the municipal area of the municipality concerned if it is done -

- (a) in pursuit of a person whom the member reasonably suspects of having committed an offence and the pursuit is commenced within the municipal area; or
- (b) on the written instruction of the Head, given with the approval of the Inspector-General.

National standards

8. (1) The Inspector-General -

- (a) may determine national standards of policing to be observed by a Service and its members; and
- (b) must cause the national standards to be published in the *Gazette*.

(2) In order to ensure that the national standards are observed by a Service and its members, the Inspector-General, or a member of the Force authorised thereto by the Inspector-General, may -

- (a) request and obtain information and documents under the control of that Service or the municipal council concerned relating to the functions of the Service;
- (b) enter any building or premises under the control of that Service or the municipal council concerned and carry out any investigation in relation to the functions of the Service;
- (c) require any reasonable assistance from any member of that Service or any other employee of the municipal council concerned.

(3) If the Inspector-General is satisfied that a Service has failed to observe the national standards, the Inspector-General may in writing -

- (a) inform the municipal council concerned of the failure;
- (b) request the council to ensure that steps are taken to secure compliance with the national standards; and
- (c) advise the council on any steps which, in the opinion of the Inspector-General, should be taken to secure compliance with the national standards.

(4) The Inspector-General must report in writing to the Minister if a Service and its members persist in disregarding the national standards despite a request made in terms of subregulation (3).

Joint operations between members of the Force and members of the Service

9. In the execution of a joint operation between members of the Force and members of a Service, the members concerned perform their functions under the command and control of their respective command structures, subject to any cooperation agreement entered into between the Inspector-General and the Chief Executive Officer.

Application of certain provisions of the Police Act, 1990

10. The provisions of the Police Act, 1990 (Act No. 19 of 1990) specified in Column 1 of Annexure B to these regulations apply, with the changes required by the context, to a municipal police service, subject to the modifications specified in Column 2 of that Annexure.

ANNEXURE A*(Regulation 7)***POWERS THAT MAY EXERCISED BY MEMBERS OF A MUNICIPAL POLICE SERVICE**

Column 1	Column 2
Provision of law	Extent of powers conferred
(a) Criminal Procedure Act, 1977 (Act No. 51 of 1977)	
section 21	The powers conferred by that section
section 22	The powers conferred by that section
section 26	The powers conferred by that section
section 27	The powers conferred by that section
section 37	The powers conferred by that section
section 72	The power conferred by that section for the purposes contemplated in section 55
(b) Stock Theft Act, 1990 (Act No. 12 of 1990)	
section 8	The powers conferred by subsections (3) and (7);
section 9	The powers conferred by that section

ANNEXURE B*(Regulation 10)***PROVISIONS OF POLICE ACT, 1990 (ACT NO. 19 OF 1990)
APPLICABLE TO A MUNICIPAL POLICE SERVICE**

Column 1	Column 2
Section	Modification
10	<p>The reference to -</p> <p>(a) “the Force” to be construed as “the Service”; and</p> <p>(b) “this Act” to be construed as “the regulations made under section 43C or any regulations of the municipal council concerned”.</p>
14(1), (2), (4), (5) and (6)	<p>The reference to -</p> <p>(a) “this Act” to be construed as “the regulations made under section 43C”;</p> <p>(b) “the Force” to be construed as “the Service”;</p> <p>(c) “Minister” to be construed as “municipal council”;</p> <p>(d) “section 13” to be construed as “regulation 4 of the regulations made under section 43C”; and</p> <p>(e) “Inspector-General” to be construed as “chief executive officer of the municipal council”.</p>
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16	<p>(a) The reference to “section 13” to be construed as “regulation 4 of the regulations made under section 43C”; and</p> <p>(b) The words “for the maintenance of law and order or” in subsection (1) to be deemed to be deleted;</p>
26	<p>The reference to -</p> <p>(a) “Inspector-General” to be construed as “Chief Executive Officer of the municipal council”; and</p> <p>(b) “this Act” to be construed as “Local Authorities Act, 1992”.</p>
27	<p>The reference to -</p> <p>(a) “State” to be construed as “municipal council”;</p> <p>(b) “the Force” to be construed as “the Service”;</p> <p>(c) “Minister” to be construed as “municipal council”;</p>

- (d) "Inspector-General" to be construed as "chief executive officer of the municipal council"; and
- (e) "this Act" to be construed as "the Local Authorities Act, 1992";

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The reference to -

- (a) "Minister" to be construed as "municipal council";
- (b) "this Act" to be construed as "the regulations made under section 43C"; and
- (c) "the Force" to be construed as "the Service".

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The reference to -

- (a) "the Force" to be construed as "the Service"; and
- (b) "Inspector-General" to be construed as "chief executive officer of the municipal council".

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The reference to -

- (a) "State" to be construed as "municipal council";
- (b) "this Act" to be construed as "the regulations made under section 43C";
- (c) "Minister" to be construed as "municipal council";
- (d) "Inspector-General" to be construed as "chief executive officer of the municipal council".

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excluding paragraphs (c), (t) and (x) of subsection (1)

The reference to -

- (a) "Minister" to be construed as "municipal council";
- (b) "the Force" to be construed as "the Service";
- (c) "State" to be construed as "the municipal council";
- (d) "this Act" to be construed as "any regulations of the municipal council"; and

The following paragraph is deemed to have been inserted after paragraph (n) of subsection (1):

"(nA) the grant of commission by the municipal council, on the recommendation of the Chief Executive Officer of the council, to members of the Service of a specified rank and the withdrawal of a commissioned rank;"