



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Police Act 19 of 1990

section 42

General Regulations

Government Notice 167 of 1994

(GG 919)

came into force on date of publication: 16 September 1994

The Government Notice which issues these regulations repeals the regulations published in RSA GN R.203/1964, except for regulation 58(32). However, regulation 58(32) was declared unconstitutional in the Supreme Court case of *Kauesa v Minister of Home Affairs* 1995 NR 175 (SC), which overturned the High Court judgment *Kauesa v Minister of Home Affairs* 1994 NR 102 (HC).

as amended by

Government Notice 143 of 1996 (GG 1332)

came into force on date of publication: 15 June 1996

Government Notice 246 of 1998 (GG 1965)

came into force on 16 February 1996 (GN 246/1998)

Government Notice 166 of 2001 (GG 2593)

came into force on date of publication: 1 August 2001

Government Notice 55 of 2002 (GG 2718)

came into force on date of publication: 2 April 2002

Government Notice 252 of 2010 (GG 4613)

came into force on date of publication: 22 November 2010

Government Notice 56 of 2011 (GG 4708)

came into force on date of publication: 12 May 2011;

withdrawn by Government Notice 238 of 2014

GN 56/2011 refers to previous amendments made by GN 201/2002 and GN 124/2003. However, GN 201/2002 (GG 2862) is a separate set of regulations which was replaced by GN 124/2003 (GG 2997).

Government Notice 298 of 2013 (GG 5337)

came into force on date of publication: 12 November 2013

Government Notice 238 of 2014 (GG 5616)

came into force on date of publication: 27 November 2014;

withdraws Government Notice 56 of 2011

GN 238//2014 refers to a previous amendment made by GN 201/2002 (GG 2862), but this is a separate set of regulations which was replaced by GN 124/2003 (GG 2997).

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Definitions

1. In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act, shall have that meaning, and -

“branch” means a branch of the Force into which the Force has been subdivided under regulation 3(2)(b);

“commander” means the head of an office, branch, institution of whatever nature, district, station or place of employment and includes the Inspector-General and a commanding officer;

“commanding officer” means an officer designated by the Inspector-General to exercise a command over a police district and all members on the authorised establishment thereof or attached thereto for duty or discipline, and in relation to a member not on the authorised establishment of a police district or attached thereto for duty or discipline, the officer under whose command, supervision or control such member is serving, whether permanently or temporarily, and also any other officer designated as such by the Inspector-General;

“convening authority” means the Inspector-General or any other person who is, in terms of the Act or these regulations, empowered to convene a board of inquiry for any purpose whatsoever, and includes any member to whom the Inspector-General has delegated his or her powers to convene such board;

[definition of “district” deleted by GN 166/2001]

“fixed establishment” means the posts created for the normal and regular requirements of the Force;

“functions” unless otherwise stated, means police duties in general and the functions referred to in Chapter II of the Act, including recruiting, training and any administrative or other duty of whatever nature connected with the Force or which, in the opinion of the Inspector-General, is necessary for the general management, control and maintenance of the Force or for the effective performance of such duties or functions or for the instruction and training of and rendering members fit for the performance of the functions or duties of the Force;

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“month” means a period from the first day of any month of a year up to and including the last day of that month;

“Public Service Regulations” means the regulations made under section 28 of the Public Service Act, 1980 (Act 2 of 1980), and promulgated under Government Notice AG. 28 of 1981;

“region” means one or more stations which the Inspector-General determines to be a region for the purpose of these regulations;

[definition of “region” inserted by GN 166/2001]

“senior” means a member who has command or exercises authority over another member, irrespective of seniority in service or rank;

[definition of “senior” inserted by GN 166/2001]

“service” means any continuous full-time public service in any capacity, and for the purpose of this definition a member shall be deemed to be on duty while -

- (a) being suspended from office;
- (b) participating in any kind of amateur sport, exercise for recreational purposes, performance, contest or competition referred to in regulation 30; or
- (c) performing a function, service or duty referred to in regulation 26;

“station” means a police station established under regulation 3(2)(a)(i);

“student” means a member who has not yet completed his or her basic training as prescribed by the Inspector-General;

[definition of “superior” deleted by GN 166/2001]

“the Act” means the Police Act, 1990 (Act 19 of 1990);

“Treasury” means the Treasury as defined in section 1 of the State Finance Act, 1991 (Act 31 of 1991);

“uniform” means any buttons, badges of rank, distinctive badges, articles of uniform and equipment, clothing and accoutrement of any nature whatsoever referred to in regulation 28 or prescribed under that regulation.

CHAPTER I

FIXED ESTABLISHMENT, ORGANIZATION AND
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Determination and distribution of establishment

2. (1) (a) The fixed establishment of the Force shall be determined by the Inspector-General with the concurrence of the Minister.

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[paragraph (a) substituted by GN 166/2001]

- (b) The Inspector-General shall make recommendations to the Minister as to the number, grading, regrading, conversion or abolition of posts constituting part of the fixed establishment, including any reduction in or reorganization or readjustment of the Force.
 - (c) Any such recommendation which involves expenditure from revenue shall, if approved by the Minister, not be carried out unless prior approval for such expenditure has been obtained.
- (2) The Inspector-General shall distribute the strength of the Force among the different districts, stations, offices or other institutions and may -
- (a) transfer any member permanently or temporarily from one district, station, office or institution to another; or
 - (b) appoint or employ any member permanently or temporarily in any branch or transfer him or her from one branch to another.
- (3) The Inspector-General may discharge any member from the Force -
- (a) on account of the abolition of such member's post or any reduction in or reorganization or readjustment of the Force if a recommendation under subregulation (1)(b) to that effect has been approved by the Minister;
 - (b) if for reasons other than such member's unfitness or incapacity, his or her discharge will promote efficiency or economy in the Force and such discharge has been approved by the Minister.

Powers, duties and Junctions of the Inspector-General

3. (1) The Inspector-General shall be accountable to the Minister for the administration of the Force, and 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, the maintenance of discipline, efficient administration and the proper use and care of government property in the Force.

(2) In addition to any powers or duties lawfully conferred or imposed upon the Inspector-General, he or she may -

- (a) subject to the provisions of sections 6 and 17 of the State Finance Act, 1991 (Act 31 of 1991) -
 - (i) establish and maintain stations, offices, training institutions, training centres or any other institutions;
 - (ii) purchase or hire supplies, arms, ammunition, accessories and other equipment, means of transport and animals required for use in the Force; and
 - (iii) generally incur such expenditure as he or she may deem necessary or expedient for the efficient administration and control of the Force;

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- (b) subdivide the Force into different subdivisions or branches and assign such designation to such subdivisions or branches and the personnel attached thereto as he or she may consider fit.

(3) In the application of the Public Service Regulations to members of the Force by virtue of section 36(b) of the Public Service Act, 1995 (Act No. 13 of 1995) -

- (a) any power, duty or function conferred or imposed on a chief executive officer by those regulations must be deemed to be a power, duty or function conferred or imposed on the Inspector-General; and
- (b) any reference in those regulations to a ministry must be construed as including a reference to the Force.

[subregulation (3) substituted by GN 166/2001]

Delegation of powers by Inspector-General

4. The Inspector-General may, on such conditions as he or she may determine, delegate any power or function conferred upon or entrusted to him or her by these regulations to any other member or the holder of any post constituting part of the fixed establishment: Provided that the Inspector-General shall not be divested of any power or function so delegated and may at any time withdraw or amend any decision given under such delegation.

Conditions in regard to the filling of posts

- 5. (1) An applicant who wishes to enrol as a member in the Force shall -
 - (a) apply on a form prescribed by the Inspector-General and confirm under oath or by way of a solemn affirmation on such form that the information furnished by him or her is correct;
 - (b) allow his or her fingerprints to be taken;
 - (c) furnish proof of good character;
 - (d) submit himself or herself to a medical examination;
 - (e) furnish proof of his or her age;
 - (f) furnish proof of his or her educational qualifications; and
 - (g) sit for an examination or undergo such educational or aptitude tests as may be prescribed by the Inspector-General.
- (2) (a) Subject to the provisions of subparagraphs (b) and (c), no person shall be appointed as a member unless he or she-
 - (i) is a Namibian citizen;
 - (ii) is at least 18 years of age;

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(iii) is free from any mental or physical defect, disease or infirmity which, in the opinion of the Inspector-General, will probably interfere with the proper execution of his or her duties or necessitate his or her retirement from the Force before reaching the pensionable age;

(iv) free from any conviction of an offence mentioned in Schedule 1 of the Act;

[subparagraph (iv) substituted by GN 166/2001]

(v) has passed at least the grade ten examination or an examination equivalent to that grade or higher; and

(vi) is prepared to take the declaration of accession to office contained in Schedule A.

(b) Paragraph (a)(v) does not apply in respect of the appointment of auxiliary members.

[paragraph (b) amended by GN 246/1998 and substituted by GN 166/2001]

(c) The Inspector-General may in his or her discretion and in exceptional circumstances, waive the requirements of paragraph (a)(ii).

(d) Notwithstanding the provisions of paragraph (a)(i), the Minister may authorize the appointment of any person who is not a Namibian citizen in the Force in a temporary capacity: Provided that the period of any such appointment shall not exceed three years.

(3) Subject to Article 116(2) of the Namibian Constitution, due regard shall, in making any appointment or promotion, or filling any post, be had to the qualifications, relative merit, efficiency and suitability of the persons being considered for promotion or appointment.

(4) In filling any post the Inspector-General shall, subject to the provisions of subregulations (3) and (5), either -

(a) promote or transfer a member; or

(b) if the post cannot be satisfactorily filled by any such promotion or transfer, appoint any other person.

(5) All members serving in the Force on the date of commencement of these regulations shall take the declaration referred to in subregulation (2).

Certificate of appointment

6. A certificate of appointment in the form contained in Schedule Band with the member's photo affixed thereto, shall for the purposes of section 4(2) of the Act be issued to every member: Provided that the Inspector-General may withhold the issue of such certificate to a student.

Promotion

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7. (1) The Inspector-General shall, subject to the provisions of regulation 5(3), before promoting a member satisfy himself or herself that such member is in all respects fit to hold the higher rank.

(2) If the Inspector-General considers it necessary, he or she shall provide training or cause training to be provided, or conduct examinations or cause examinations to be conducted in such subjects as may be prescribed by him or her or be prescribed as a qualification to be possessed by members on promotion.

Ranks, official designations, precedence and seniority in rank

8. (1) The ranks in the Force, in order of precedence, are as set out in Schedule C.

(2) (a) If the Inspector-General deems it expedient he or she may, from time to time temporarily confer a higher rank on any member, and the member concerned shall hold such temporary higher rank so conferred, during the pleasure of the Inspector-General.

(b) A member to whom such temporary higher rank has been conferred shall have the powers and authority applicable to such higher rank: Provided that such member shall not be entitled to the higher scale of salary or allowance applicable to such higher rank.

(3) A commander shall, irrespective of seniority in service or rank, be deemed to be the senior of any members over whom the commander exercises authority, command, control or supervision, whether permanently or temporarily.

[subregulation (3) substituted by GN 166/2001]

Resignation by non-officers

9. (1) Any non-officer may by notice in writing tender his or her resignation.

(2) Any such notice shall take effect upon the expiration of a period of one calendar month after the date upon which the notice is lodged with the member's commanding officer, or on such earlier date as the Inspector-General, at the request of the member, may approve.

[subregulation (2) substituted by GN 166/2001]

Discharge of members on account of ill-health under section 7(1) of the Act

10. (1) The Inspector-General may at any time direct a member to submit himself or herself to an examination, at the expense of the State, by a district surgeon or other registered medical practitioner for the purpose of obtaining a report on his or her state of health or with a view to the appearance of such member before a medical board.

(2) If a district surgeon or other medical practitioner states in his or her report that, in his or her opinion, the member concerned is or is likely to become medically unfit for further service in the Force, such report shall be submitted to the Inspector-General without delay.

(3) (a) The Inspector-General may convene a medical board or may direct that such a board be convened for the purpose of examining a member and determining whether or not he or she is fit to remain in the Force.

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- (b) Such board shall consist of one or more registered medical practitioners and, if necessary, one or more persons registered to render medical auxiliary services, appointed by the convening authority.
- (c) (i) Any medical reports or sheets which may have a bearing on the case, as well as any relevant reports which the member concerned may wish to submit, shall be submitted to the board for consideration and shall be included in the proceedings.
- (ii) If such member so desires, he or she may at his or her own expense be represented at the proceedings of the board by his or her private registered medical practitioner.
- (d) (i) After examining the member concerned and considering the reports or sheets referred to in paragraph (c), the board shall record its report, findings and recommendation on the prescribed form.
- (ii) The records of the board shall be signed by all its members.
- (e) If the board recommends that the member concerned be discharged from the Force on account of ill-health, he or she shall be given the opportunity to make written representations to the Inspector-General.
- (f) The records and any representations referred to in paragraphs (d) and (e), respectively, shall be forwarded to the Inspector-General for consideration, who may, if he or she deems it expedient, consult the Permanent Secretary: Health and Social Services or a medical officer designated by him or her.
- (4) (a) The Inspector-General shall decide whether the member concerned shall -
 - (i) in terms of section 7(1) of the Act, be discharged as medically unfit for further service in the Force;
 - (ii) be granted leave of absence;
 - (iii) again be examined; or
 - (iv) be ordered to resume duty.
- (b) If the Inspector-General decides to discharge the member concerned, the date of his or her discharge shall be determined by the Inspector-General.

Appeal against discharge on account of ill-health in terms of section 7(2) of the Act

11. (1) A member who desires to appeal in terms of section 7(2) of the Act against an order discharging him or her, shall within 14 days after the date on which he or she is notified of such order, lodge with the officer who served the order on him or her, a written appeal in which the grounds on which the appeal is based are set out clearly and in detail.

(2) The appeal, together with the record of the board's proceedings and all other relevant documents, shall be submitted by the Inspector-General to the Minister.

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(3) The execution of an order discharging a member shall not be suspended by reason of an appeal in terms of this regulation.

(4) After consideration of all the documents submitted to the Minister, he or she shall allow the appeal and set aside the order of discharge, or dismiss the appeal and confirm such order.

Enquiry into fitness of member to remain in the Force or to retain his or her rank

12. (1) A board of enquiry referred to in section 8(1) of the Act consists of one or more persons designated in writing by the Inspector-General, from among -

- (a) members of the Force; or
- (b) if the Inspector-General considers it expedient in a particular case, staff members in the Public Service who possess an appropriate legal qualification.

(2) If the board of enquiry consists of more than one person the Inspector-General must appoint the chairperson thereof, who, if a member of the Force is appointed, must be an officer higher in rank than the member in respect of whom the enquiry is to be held.

(3) The person who is to preside at the enquiry must, with the concurrence of the Inspector-General or an officer designated by the Inspector-General, fix the time and place of the enquiry.

(4) The Inspector-General, or the officer designated, must give to the member concerned at least fourteen days' notice in writing of the time and place fixed for the enquiry, which must contain or be accompanied by a copy of the convening order.

(5) The Inspector-General, or the officer designated, may authorise any person to act as *pro forma* prosecutor to present the matter to the board of enquiry and -

- (a) to adduce evidence and argument in support of the allegations referred to in subregulation (4); and
- (b) to cross-examine any person who gives evidence in rebuttal of the allegations.

(6) At the enquiry the member concerned has the right -

- (a) to be represented by a legal practitioner;
- (b) to give evidence and call witnesses;
- (c) to cross-examine a person called as a witness in support of the allegations referred to in subregulation (4); and
- (d) to inspect any document produced in evidence.

(7) The person presiding at the enquiry must keep proper record of the proceedings of the enquiry.

(8) At the conclusion of the enquiry, the board of enquiry must -

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- (a) make a finding as to the fitness of the member to remain in the Force or to retain his or her rank;
- (b) inform the member of the finding and, in the case of an adverse finding, of the members' right in terms of subregulation (9) to submit representations to the Inspector-General; and
- (c) report to the Inspector-General the result of the finding.

(9) If the board of enquiry finds that the member is not fit to remain in the force or to retain his or her rank, the member may, within 14 days of the date on which he or she is informed of the finding, submit to the Inspector-General representations in writing regarding the Inspector-General's power in relation to the steps which may be taken under subregulation (10).

[The word "force" should be capitalised.]

(10) After consideration of the documents relating to the enquiry and any representations made in terms of subregulation (9), the Inspector-General may -

- (a) decide not to take steps in the matter;
- (b) reduce the member's rank to the extent determined by the Inspector-General; or
- (c) discharge the member from the Force.

(11) The Inspector-General must as soon as possible inform the member in writing of his or her decision and of the member's right in terms of section 8(2) of the Act to appeal against the decision.

[regulation 12 substituted by GN 166/2001]

Appeal against discharge or reduction in rank under section 8(2) of the Act

13.1 (1) A member who wishes to appeal to the Minister in terms of section 8(2) of the Act -

[The regulation number should be "13" rather than "13.1".]

- (a) against a finding of the board of enquiry that the member is unfit to remain in the Force or to retain his or her rank;

[The semicolon at the end of paragraph (a) is repeated.]

- (b) against a decision of the Inspector-General that the member be discharged from the Force or be reduced in rank; or
- (c) against both the finding and the decision,

must lodge his or her appeal in writing with the Inspector-General within 14 days of the date on which he or she is informed of the Inspector-General's decision, which must set forth the grounds on which the appeal is based.

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(2) Upon receipt of an appeal the Inspector-General must forthwith submit to the Minister all documents relating to the enquiry and the appeal.

- (3) In determining the appeal, the Minister may -
- (a) dismiss the appeal and confirm the decision; or
 - (b) uphold the appeal wholly or in part and set aside the decision or substitute for that decision such other decision as, in the opinion of the Minister, the Inspector-General ought to have taken.

[regulation 13 substituted by GN 166/2001]

Certificate of service

14. (1) Upon the resignation, discharge or retirement of a member from the Force, the member must be provided with a certificate of service setting forth -

- (a) his or her rank;
- (b) his or her period of service in the Force; and
- (c) the reason for the cessation of his or her service in Force: Provided that if a member is discharged in terms of section 8(1) or 9 of the Act, the certificate of service shall not state the circumstances in which the member was discharged.

[subregulation (1) substituted by GN 166/2001]

(2) Such certificate shall be signed by the Inspector-General and he or she may attach to it any recommendation concerning the conduct of such member which he or she considers justified in giving.

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DISCIPLINE

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15. A member shall be guilty of misconduct if he or she -
- (a) contravenes any rule made by the Inspector-General in terms of section 3(2) of the Act;
 - (b) sleeps on duty;
 - (c) is grossly discourteous to any person whilst on duty;
 - (d) is negligent or indolent in the discharge of his or her duties;
 - (e) without leave or a valid reason is absent from duty or leaves his or her place of duty or post while on duty;

[paragraph (e) substituted by GN 166/2001]

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- (f) fails without valid cause, to report for duty at a stipulated time at his or her station, place of employment or any other place appointed by his or her commander;
- (g) contrary to any orders or instructions of a superior, goes off duty before being relieved or without having first obtained permission from his or her superior to do so;
- (h)
 - (i) without proper authority, releases a prisoner or other person in custody, or wilfully or negligently allows him or her to escape;
 - (ii) uses unnecessary force or violence against a prisoner or other person in custody, or otherwise ill-treats him or her;
- (i)
 - (i) assaults his or her superior, threatens him or her with violence, uses threatening or insulting language towards him or her, resists him or her by word or action or adopts towards him or her a disdainful, recalcitrant or insolent attitude;
 - (ii) falsely imputes improper demeanour or misconduct to a superior;
 - (iii) disobeys, disregards or refuses to carry out a lawful order given to him or her by a person having the authority to give it, or by word or conduct shows insubordination;

[subparagraph (iii) substituted by GN 166/2001]

- (j) treats an inferior in a tyrannical or oppressive manner;
- (k) borrows money from or through a member holding a lower rank;
- (l) fights or otherwise behaves in a riotous or an unseemingly manner;

[The word “unseemingly” should be “unseemly”.]

- (m) intentionally causes an unnecessary disturbance, gives a false alarm or disseminates false information;
- (n) conducts himself or herself in a disgraceful, improper or unbecoming manner which may cause embarrassment to the Force;

[paragraph (n) substituted by GN 166/2001]

- (o) takes an active part in any activity which is likely to interfere with the impartial discharge of his or her duties or which is likely to give rise to that impression amongst members of the public;
- (p)
 - (i) malingers, feigns or pretends to be ill, infirm, indisposed, injured or suffering from pain;
 - (ii) obtains or attempts to obtain exemption from duty by advancing a false or exaggerated excuse on the ground of illness, infirmity, indisposition, injury or pain;

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- (iii) wilfully causes illness, infirmity, indisposition or pain or wilfully maims or injures himself or herself or any other member, whether at the request of such member or not, or wilfully causes himself or herself to be maimed or injured by any other person with the intention of rendering himself or herself or such other member unfit for duty or the performance of his or her functions;
- (iv) as a patient in any hospital or nursing institution, wilfully fails to obey any regulation or rule thereof or any lawful direction given by a member of the medical or nursing staff attached to such hospital or institution;
- (q) (i) deserts the Force, refuses to serve in or carry out the functions of the Force or incites or persuades any other member to desert, refuse to serve in or to carry out the functions of the Force;
- (ii) knowingly and wilfully receives, cares for, harbours or conceals a member who deserted or, without valid cause, absented himself or herself from duty or, knowing the whereabouts of such member, fails to notify his or her superior immediately or to do everything in his or her power to have him or her arrested;
- (r) (i) conspires with any other person to commit mutiny or to cause a mutiny, strike, riot or revolt;
- (ii) joins in any mutiny, strike, riot or revolt or incites any person to do so;
- (iii) while a mutiny, strike, riot or revolt takes place in his or her presence, fails to do everything in his or her power to suppress it;
- (iv) while knowing or suspecting any other person to be involved in any conspiracy to cause a mutiny, strike, riot or revolt or to have joined in it, fails to report all the facts which he or she knows immediately to his or her commander or superior;
- (s) addresses any anonymous communication to a Minister, the Inspector-General, any other dignitary or a superior in the Force;
- (t) makes a false accusation against any member or, during an investigation, disciplinary proceedings or inquiry makes a false statement or wilfully suppresses or conceals material facts;
- (u) withholds or unreasonably delays any complaint against or an adverse communication concerning another member;
- (v) wilfully refuses or neglects to discharge any lawful debt;
- (w) without the permission of the Inspector-General -
 - (i) discloses, otherwise than in the discharge of his or her official duties, information gained by or conveyed to him or her as a result of his or her employment in the Force, or uses such information for any purpose other

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than for the discharge of his or her official duties, whether or not he or she discloses such information;

- (ii) accepts or demands in respect of the carrying out of or the failure to carry out his or her duties any commission, fee or reward, pecuniary or otherwise, to which he or she is not entitled by virtue of his or her office, or fails to report immediately to his or her commander the offer of any such commission, fee or reward;
- (x) (i) is under the influence of intoxicating liquor or any stupefying drug without the prescription of a medical practitioner, whether or not he or she is on or off duty;

[subparagraph (i) substituted by GN 166/2001]

- (ii) without the prescription of a medical practitioner, uses intoxicating liquor or a stupefying drug while on duty;

[subparagraph (ii) substituted by GN 166/2001]

- (iii) uses intoxicating liquor excessively or uses stupefying drugs without a prescription from a medical practitioner;
- (iv) enters, while on duty, any room or place being used for the manufacture, storage, sale or supply of intoxicating liquor, except in the performance of his or her functions or to obtain accommodation;
- (v) places himself or herself under an obligation to any dealer in intoxicating liquor or any barman or other person in the employ of any such dealer or barman where such obligation is likely to hamper him or her in the proper discharge of his or her duties;
- (vi) holds shares in an unlisted company, the main object of which is the manufacture or supply of or trading in intoxicating liquor;
- (y) demands, solicits, receives or accepts any discount, commission, gift, fee, reward or other consideration or advantage, whether pecuniary or otherwise (except his or her official remuneration), in respect of the acquisition, purchase, sale or disposal of any supplies, arms, ammunition, accessories, transport, animals and other equipment or any other requisites of whatever nature, required for use in, or being the property of the Force, a canteen, mess or any other institution of the Force;

[The word “club” was substituted for “canteen” in regulation 29 by GN 166/2001, but there was no reference to the use of this word in paragraph (y) of regulation 15. Therefore, the use of the word “canteen” in paragraph (y) is now inconsistent with the other regulations.]

- (z) misappropriates or wilfully or negligently causes damage or loss -
 - (i) to property of the Government or under the control of the Government or for which the Government is responsible, including property issued to him or her to another member at public expense for use in the execution of his or her or that member’s duties;

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- (ii) to property belonging to another member, a club, mess or any other institution of the Force, or to any prisoner or other person in custody;
- (iii) to property being and exhibit in a criminal case, or property abandoned, lost or unclaimed and found or taken into safekeeping by the member or any other member, or which is in his or her or any other member's possession;

[paragraph (z) substituted by GN 166/2001]

- (aa) (i) whether on or off duty, knowingly and deliberately wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with any political party or any movement, organisation, body or association having political objects;
- (ii) takes an active part in party-political matters or associates himself or herself with the political activities, objects or matters of a party, movement, organisation, body or association referred to in subparagraph (i) or, subject to the provisions of regulation A13.2(b) of the Public Service Regulations, in any way actively promotes the candidature of a candidate for the National Assembly, the National Council, a regional council established under section 2 of the Regional Councils Act, 1992 (Act 22 of 1992), or a local authority council established in respect of an area declared or deemed to be declared as the area of a local authority under section 3 of the Local Authorities Act, 1992 (Act 23 of 1992), or a school board, beyond recording his or her vote or carrying out his or her functions and official duties in connection with an election;
- (iii) uses his or her position in the Force or utilises any property of the State to promote or prejudice the interest of any political party.

[subparagraph (iii) inserted by GN 166/2001]

- (ab) (i) without the written permission of the Inspector-General, establishes a trade union or becomes a member of a trade union;
- (ii) without the written permission of the Inspector-General, takes part in or associates with the activities, objects or matters of a trade union;
- (iii) before the permission contemplated in subparagraph (i) or (ii) has been obtained, whether on or off duty, knowingly and deliberately wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with such trade union;
- (ac) attempts to secure intervention from political or outside sources in relation to his or her own or another member's position or conditions of employment or functions in the Force;
- (ad) with intent to deceive or prejudice any person, suppresses, conceals, withholds, defaces, alters, destroys or does away, whether wholly or partly, with any report, return, register, book, record, form, claim, letter or any other document in relation to his or her functions or duties in the Force, obliterates anything therein or makes,

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causes or allows to be made or connives at the making of any false, misleading, incomplete or inaccurate statement, record or entry therein;

- (ae) with a view to obtain any privilege or advantage in relation to his or her official position, functions or duties, or to causing prejudice or injury to the Government, the Public Service, the Force, another ministry or public office or any other member of the Force or the Public Service, makes a false or incorrect statement, knowing it to be false or incorrect;
- (af) after having been duly ordered to be present at a specified time and place as the accused, defendant or witness at disciplinary proceedings or a board of inquiry or any other inquiry under the Act or these regulations, fails without just cause to appear at the time and place specified or, subject to the provisions of section 20(2) of the Act and these regulations, if he or she is present, refuses to take an oath or to make an affirmation administered to him or her or refuses or fails to answer all questions which have lawfully been put to him or her or refuses or fails to produce a document or thing which he or she has lawfully been required to produce;
- (ag) performs, or causes or permits to be performed or connives at, any act prejudicial to the administration, discipline or efficiency of the Force; or
- (ah) while on duty, on the grounds of another person's colour, race, nationality or ethnic or national origin, wilfully discriminates against such person or treats such person improperly.
- (ai) uses his or her position in the Force or utilises any property of the State to promote or prejudice the interest of any business or private agency, except in the performance of his or official duties; or

[paragraph (ai) inserted by GN 166/2001]

- (aj) is convicted of an offence.

[paragraph (aj) inserted by GN 166/2001]

Recording and investigation of complaints of misconduct against members and the institution of criminal or disciplinary proceedings against such members

- 16. (1) (a) If -**
- (i) any person other than a member lodges a complaint of misconduct against any member; or
 - (ii) a member suspects that any other member has committed a criminal offence,

it shall be the duty of the member to whom such complaint has been made or who has formed such suspicion to record it on a prescribed document and obtain and preserve any evidence relating to such misconduct or offence.

- (b) The member to whom such complaint has been made or who formed such suspicion shall immediately submit a written report relating thereto to his or her

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commander for submission to the Inspector-General in accordance with such procedures as he or she may prescribe.

- (c) (i) Subject to subparagraphs (ii) and (iii), the Inspector-General shall immediately upon receipt of such report designate an officer of a higher rank than the member to whom such complaint or suspicion relates to investigate such complaint or suspicion.
- (ii) The Inspector-General may designate a member of lesser rank than the member to whom such complaint or suspicion relates, to assist the investigating officer.
- (iii) The investigating officer shall not be attached to the same station or office as the member to whom such complaint or suspicion relates.
- (iv) The Inspector-General shall not be obliged to designate an investigating officer if the complaint or suspicion in question has been withdrawn, was reported anonymously or does not reveal any misconduct or offence.
- (d) After completion of his or her investigation the investigating officer shall submit his or her report together with all relevant statements, documents and such written comments as he or she may consider appropriate, to the Inspector-General in accordance with such procedures as he or she may prescribe.
- (e) After consideration of the report, statements, documents and comments the Inspector-General shall, if he or she is of the opinion that -
- (i) an offence was committed, submit such report, statements, documents and comments to the Prosecutor-General for his or her decision as to whether criminal proceedings shall be instituted; or
- (ii) an offence of misconduct other than a criminal offence was committed, determine whether any disciplinary proceedings shall be instituted in terms of section 18 of the Act.

[subparagraph (ii) amended by GN 166/2001]

- (f) Subject to the provisions of section 22 of the Act, the Inspector-General shall not, after the report, statements, documents and comments referred to in paragraph (e)(i) has been submitted to the Prosecutor-General, take any decision relating to the institution of disciplinary proceedings as contemplated in paragraph (e)(ii).
- (2) (a) Where a complaint of misconduct, except misconduct relating to a criminal offence, arises otherwise than in the case of a complaint lodged by a person contemplated in subregulation (1)(a)(i), the provisions of subregulation (1)(a), (b), (c), (d) and (e)(ii) shall apply *mutatis mutandis*.
- (b) For the purpose of the application of subregulation (1) to a complaint of misconduct contemplated in paragraph (a), any reference in that subregulation to the Inspector-General shall be construed as a reference to the commanding officer of the region in which the alleged misconduct took place.

[paragraph (b) amended by GN 166/2001]

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(3) Disciplinary proceedings may be instituted against a member notwithstanding the fact that the Prosecutor-General has declined to prosecute him or her.

(4) The Inspector-General or the commanding officer contemplated in subregulation (2), as the case may be, may at any time before the start of any disciplinary proceedings, direct that such proceedings be suspended.

(5) For the purposes of this regulation, “complaint” includes any report or allegation of misconduct.

Disciplinary proceedings against members under section 18 of the Act

17. (1) Subject to these regulations, disciplinary proceedings in terms of section 18 of the Act must be conducted as nearly as is practicable in the manner followed in summary criminal proceedings in a magistrate’s court.

(2) (a) Disciplinary proceedings in relation to an alleged act or omission constituting misconduct referred to in regulation 15 must be instituted within 12 calendar months from date on which the act or omission was committed or occurred or on which the senior of the member concerned had knowledge or might reasonably have been expected to have knowledge of the act or omission, whichever is the later date.

(b) For the purposes of paragraph (a) disciplinary proceedings are considered to be instituted on the date on which a copy of the charge sheet is served on the member in terms of subregulation (6).

(3) The person designated under section 18(2) of the Act before whom disciplinary proceedings are to be conducted (hereafter referred to as “the presiding officer”) must determine the time and place of the proceedings, and if the proceedings for any reason cannot be arranged to commence within 21 days of the date of the presiding officer’s designation, the presiding officer must forthwith in writing furnish the Inspector-General with the reason therefor and determine the time and place of commencement of the proceedings with the concurrence of the Inspector-General.

(4) The presiding officer must designate a member equal or senior in rank than the member charged to act as *pro forma* prosecutor. If the prosecutor is required to give evidence against the member charged which is not merely of a formal nature, he or she must as far as practicable do so before any other evidence is recorded.

(5) (a) Subject to paragraph (b), no person other than the presiding officer, the *pro forma* prosecutor, the member charged and his or her legal representative, a witness while giving evidence and an interpreter, if required, may be present at the disciplinary proceedings.

(b) If the proceedings arise from a complaint by a person who is not a member, the presiding officer must, subject to paragraph (c), allow the complainant to attend the proceedings and, if the presiding officer considers it appropriate on account of the age of the complainant or for any other reason, allow the complainant to be accompanied by a friend or a relative: Provided that if the complainant, friend or relative concerned is to be called as a witness at the proceedings, he or she may not be allowed to attend the proceedings before his or her evidence has been recorded.

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- (c) If it appears to the presiding officer that any evidence to be given at the proceedings may disclose information which in the public interest ought not to be disclosed to any person other than a member, the presiding officer may exclude any person to in subparagraph (b) from all or any part of the proceedings.

(6) At least seven days (Sunday and public holidays excluded) before the commencement of the proceedings the presiding officer must serve or cause to be served on the member concerned a copy of the charge sheet in the form as determined by the Inspector-General, which must indicate the time, date and venue of the proceedings.

- (7) (a) The prosecutor must arrange for the attendance of all witnesses by giving them reasonable notice of the time, date and venue of the proceedings.
- (b) In the case of witnesses who are not members, the prosecutor must, if required, serve or cause to be served on them subpoenas signed by the presiding officer and the service of which must be effected in the manner prescribed for the service of a subpoena in criminal proceedings in a magistrate's court.
- (c) If the member charged requires any witness to be subpoenaed to testify on his or her behalf, he or she may submit an application to that effect to the presiding officer: Provided that if, on conclusion of the evidence given by any such witness, the presiding officer is of the opinion that the evidence given by the witness was not necessary and of material importance, the Inspector-General may order the member charged to refund any amount paid from public funds to secure the attendance of that witness and may cause that amount to be recovered from the member as a debt owing to the State.

(8) If a member on whom a charge of misconduct has been served admits the charge in writing and the Inspector-General, having regard to the nature of the alleged misconduct and other relevant circumstances, is of the opinion that a fine not exceeding N\$200 should be imposed, the Inspector-General must direct that member to appear before him or her or another officer designated by the Inspector-General and if on such appearance the member pleads guilty to the charge, the Inspector-General or that officer may find the member guilty of misconduct without hearing evidence and, subject to subregulation (9), reprimand him or her or impose upon him or her a fine not exceeding N\$200,00.

(9) If at disciplinary proceedings before a presiding officer the member pleads guilty to the charge of misconduct, the presiding officer, after questioning the member with regard to the alleged facts of the case to ascertain whether the member admits the allegations in the charge sheet, may find the member guilty of misconduct without hearing evidence: Provided that if the presiding officer is not the commanding officer of the member charged, the Inspector-General or the commanding officer, having regard to the nature of the alleged offence and other relevant circumstances, may direct that notwithstanding a possible plea of guilty, evidence must be led by the member charged to establish the nature and extent of the offence in question.

- (10) (a) If at disciplinary proceedings the member charged is found guilty, the *pro forma* prosecutor must produce a certified extract from the conduct sheet of the member as contemplated in regulation 22, and the presiding officer must direct the member charged to admit or deny any previous convictions for misconduct recorded thereon.

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- (b) If the member charged does not admit an alleged previous conviction the *pro forma* prosecutor may, with the leave of the presiding officer, lead evidence to prove that conviction.
- (c) A previous conviction admitted by the member or proved in terms of paragraph (b) must be taken into consideration by the presiding officer for the purpose of imposing a penalty.
- (11) Before imposing any penalty, the presiding officer must -
 - (a) advise the member concerned of the possible penalties which may be imposed in terms of regulation 18(1); and
 - (b) allow the member concerned and the *pro forma* prosecutor to adduce evidence and to make representations with regard to the proper penalty to be imposed.

[The word “pro” is repeated in paragraph (b).]

- (12) (a) The member charged and all other members required to attend a disciplinary hearing is regarded as being on duty and is entitled to the travelling privileges and subsistence allowances provided for in regulation D.1 of the Public Service Regulations.
- (b) Witnesses, other than those referred to in paragraph (a), are entitled to the subsistence allowances and travelling facilities prescribed for witnesses in criminal proceedings in a magistrate’s court, which must be met from public funds.
- (13) The member charged is responsible for the payment of the fees of a legal representative who appears on his or her behalf.
- (14) The member concerned or his or her legal representative may, under the supervision of a member designated by the presiding officer, inspect the report of the proceedings and make a copy thereof, free of charge and, if the member concerned so requests, he or she may be furnished with a copy on payment of a fee at the rate charged for the supply of a copy of the record of proceedings at a summary trial in a magistrate’s court.
- (15) A person who -
 - (a) has been duly notified or summoned in terms of subregulation (6) or (7) and who fails without sufficient cause to attend at the time and place specified in the notice or subpoena or to remain in attendance until excused by the presiding officer from further attendance;
 - (b) prevents another person from obeying a subpoena or from giving evidence; or
 - (c) obstructs or interrupts the proceedings; or
 - (d) insults the presiding officer,

is guilty of an offence and on conviction liable to a fine not exceeding N\$2000,00 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

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(16) A person who commits an offence referred to in paragraph (c) or (d) of subregulation (14) may be removed from the proceedings by order of the presiding officer.

[regulation 17 substituted by GN 166/2001]

Penalty for misconduct

18. (1) If a member is found guilty of misconduct, the presiding officer, after compliance with regulation 17(11), may -

- (a) caution or reprimand the member;
- (b) subject to subregulation (2)(a), recommend to the Inspector-General that the salary or rank, or both the salary and rank, of the member be reduced to the extent indicated;
- (c) impose on the member a fine not exceeding N\$2000,00 but the presiding officer may suspend the payment of the fine, or any part thereof, for a period not exceeding three years on any condition relating to good conduct; or
- (d) recommend to the Inspector-General that the member be discharged, or be called upon to resign from the Force with effect from a date to be specified by the Inspector-General.

(2) A penalty imposed in terms of subregulation (1)(b) shall not be such as to reduce the salary of the member below the scale of salary for his or her rank.

(3) A fine imposed under subregulation (1)(c), the payment of which is not suspended, may be recovered by way of deductions from the member's salary or allowances in instalments as the Inspector-General may determine, but not exceeding N\$100 per month.

[regulation 18 substituted by GN 166/2001]

Appeal against conviction for misconduct and penalty

19. (1) A member who intends to appeal in terms of section 18(8) of the Act against -

- (a) a finding that he or she is guilty of misconduct;
- (b) any punishment imposed under regulation 18(1); or
- (c) against both that finding and that punishment,

must within 14 days after the date on which he or she is notified of the confirmation of that finding and punishment in terms of section 18(6) or (7) of the Act, lodge a notice of appeal with the presiding officer.

(2) The Minister may, upon application of the member concerned, and if it appears to the Minister that substantial prejudice may occur, extend the period of 14 days referred to in subregulation (1) or condone the late lodging of an appeal.

- (3) A notice of appeal lodged in terms of subregulation (1) must -

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- (a) specify whether the appeal is against the finding or the punishment or both the finding and the punishment;
- (b) set out clearly in detail the grounds on which the appeal is based; and
- (c) be accompanied by such representations in writing as the member may wish to submit in support of the appeal.

(2) On receipt of the appeal the presiding officer must compile a written reply in which he or she must set forth -

- (a) the facts found to be proved;
- (b) the reason for his or her finding regarding any fact in connection with which the appeal is noted; and
- (c) the reasons for his or her ruling on any point of law which was raised or on the admission, credibility or rejection of evidence in connection with which the appeal is lodged.

(3) The presiding officer must submit the notice of appeal and his or her reply, together with the record of the proceedings and all other relevant documents, to the Inspector-General who in turn must submit all those documents to the Minister together with such written comment as the Inspector-General may consider appropriate.

(4) After consideration of the documents relating to the appeal, the Minister may make any decision referred to in section 18(9) of the Act.

[regulation 19 substituted by GN 166/2001]

20.

[regulation 20 deleted by GN 166/2001]

21.

[regulation 21 deleted by GN 166/2001]

Conduct sheets

22. (1) A conduct sheet, in the prescribed form, shall be maintained in respect of every member and all convictions for misconduct shall, unless the Inspector-General in general prescribes otherwise, be recorded thereon.

- (2) (a) If, for a period of five years since the date of the last conviction appearing on a member's conduct sheet, no further conviction is recorded thereon, all entries shall, subject to paragraph (b), be expunged.

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- (b) An entry in connection with a conviction in respect of which the sentence or part thereof has been suspended or postponed shall be expunged as soon as all the conditions of such suspension or postponement have been complied with.

(3) Notwithstanding the provisions of subregulation (2), the Inspector-General may prescribe that a conviction which has already been expunged, be taken into account for certain purposes.

Prohibition on wearing of uniform during period of suspension

23. A member who has been suspended from office may not wear uniform during the period of such suspension.

CHAPTER III

GENERAL

Board of inquiry for administrative purposes

24. (1) The Inspector-General may, for administrative purposes, convene a board to enquire into -

- (a) (i) an injury alleged to have been sustained by a member or any other person in the service of the Force in an accident arising out of or in the course of the performance of his or her functions
- (ii) a disease or indisposition alleged to have been contracted in the course and as a result of the performance of such member's or person's functions;
- (iii) any subsequent incapacitation alleged to be due to the same injury, disease or indisposition or
- (iv) an indisposition alleged to have resulted from vaccination or inoculation in accordance with the provisions of these regulations;

[The word "inoculation" is usually spelt without a double "n".]

- (b) the death of a member or any other person in the service of the Force, alleged to have been caused as a result of the circumstances referred to in paragraph (a);
- (c) the absence from duty of a member or any other person in the service of the Force, owing to illness, indisposition or injury alleged to be due to misconduct or serious or deliberate failure to take reasonable precautions;
- (d) the suitability, value and purchase of any supplies, arms, ammunition, accessories and other articles of equipment, means of transport and other animals required for use in the Force or the suitability for further service of any part of the aforesaid property already in use in the Force;
- (e) any deficiency in or damage to or loss of public property or any property in possession of or under the control of the Government or for which the Government is responsible, or any property of a member or other person employed in the Force,

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which is alleged to have occurred in connection with the performance of his or her functions or duties in the Force;

- (f) any deficiency, loss, damage or expense occasioned to the Government as a result of the alleged wrongful conduct, negligence or carelessness of a member or any other person employed in the Force; or
- (g) any other matter which the Inspector-General may consider necessary.

(2) The convening authority shall appoint an officer as chairperson of such board and may appoint any member who is in his or her opinion well-versed in any matter which is relevant to the enquiry, as a member of the board.

(3) The convening order must stipulate -

- (a) the terms of reference of the board of enquiry;
- (b) the facts which gave rise to the enquiry.
- (c) the person to whom the board's report must be submitted.

(4) The chairperson of the board must -

- (a) determine the place where the enquiry is to be held and the date and time of commencement thereof;
- (b) cause any person in relation to whom the enquiry is to be held to be given reasonable notice of the place, date and time referred to in paragraph (a), accompanied by a copy of the convening order, including any annexure referred to therein.

(5) The enquiry must be limited to the terms of reference set out in the convening order.

(6) The chairperson may designate a member equal or senior in rank to the person (if any) in respect of whom the enquiry is to be held to present the matter being enquired into and to adduce evidence.

(7) The chairperson of the board must -

- (a) arrange for the attendance of all witnesses by giving them reasonable notice of the venue, date and time of commencement, of the proceedings;
- (b) cause subpoenas to be issued and served on witnesses -
 - (i) who are not members of the Force;
 - (ii) whom the member in respect of whom the enquiry is conducted requires to attend and give evidence at the enquiry,

the service of which must be effected in the manner prescribed for the service of a subpoena in criminal proceedings in a magistrate's court;

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(8) A person who is not a member of the Force is not compelled to appear as witness before the board.

(9) The person in respect of whom the enquiry is held, may -

- (a) testify in person before the board;
- (b) either personally or through his or her legal representative -
 - (i) call any witness to testify on any matter or produce any document relevant to the enquiry; and
 - (ii) cross-examine any person called as a witness by the member designated under subregulation (6) or by the board.

(10) At the enquiry -

- (a) statements made by witnesses must be recorded and read over and signed by them;
- (b) the chairperson, if he or she is satisfied that attendance of any witness is for any reason not possible or necessary, may accept a written statement made on oath or affirmation by that witness:

Provided that the chairperson must cause written interrogatories raised by the board, or by the person in respect of whom the enquiry is held or his or her legal representative, to be submitted to such witness for reply.

(11) After consideration of all the available evidence and any representations made by or on behalf of the person in respect of whom the enquiry is held, the board must -

- (a) compile a report on the matter investigated, setting forth its findings and recommendations, if any;
- (b) forward that report and the record of the board's proceedings, accompanied by witness statements and documents produced at the proceedings, to the person indicated in terms of subregulation (3)(c) in the convening order.

(12) The Inspector-General may order a board of enquiry to reconvene in order to -

- (a) examine any additional witnesses;
- (b) subpoena and examine any witness from whom a written statement was accepted in terms of subregulation (10)(b);
- (c) record additional information; or
- (d) reconsider its finding or recommendation.

(13) If in terms of subregulation (11)(b) the board's report is submitted to a person other than the Inspector-General, that person must -

- (a) record in writing any comments which he or she considers relevant concerning the report; and

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- (b) submit those written remarks and the record of the proceedings and other documents referred to in subregulation 11(b) to the Inspector-General.

[The cross-reference in paragraph (b) should refer to subregulation (11)(b), with the "11" in brackets as it is in the introductory phrase of subregulation (13).]

- (14) A witness who attends the proceedings of an enquiry in terms of this regulation -
- (a) if he or she is a member of the Force, is regarded as being on duty and is entitled to the travelling privileges and subsistence allowances provided for in regulation D.I of the Public Service Regulations;
- (b) if he or she is not a member of the Force, is entitled to the subsistence allowances and travelling facilities prescribed for witnesses in criminal proceedings in a magistrate's court.

[GN 166/2001 replaces subregulations (3)-(5) with subregulations (3)-(14).]

Deficiency, loss, damage or expenses

25. (1) Any member may be held liable to make good any deficiency, loss, damage or expense caused to the State as a result of his or her wrongful act, negligence or carelessness or his or her failure to carry out a specific duty, and if more than one member is responsible for such deficiency, loss, damage or expense, they shall be jointly and severally liable.

(2) Unless a member who is held liable in terms of subregulation (1) is prepared to compensate any such deficiency, loss, damage or expense of his or her own accord and unless he or she furnishes within a reasonable time to be determined by the Inspector-General, a proper, acceptable explanation in regard to his or her alleged wrongful act, negligence, carelessness or failure to perform a duty to the Inspector-General or his or her commanding officer to whom the Inspector-General has delegated the powers conferred upon him or her by this regulation, an order against the member concerned for the recovery of the full amount of the deficiency, loss, damage or expense may be issued by -

- (a) the Inspector-General or an officer authorised by him or her, if the amount is N\$1 000 or more and if the member concerned was convicted on a charge of misconduct involving such deficiency, loss, damage or expense or if a board of enquiry convened under regulation 24(1) has found that he or she was responsible therefor; or
- (b) the Inspector-General, an officer authorised by him or her, or the member's commanding officer if the amount is less than N\$1 000 and the Inspector-General or such authorised officer or commanding officer, after careful investigation, is satisfied that such deficiency, loss, damage or expense was in fact caused through the member's wrongful act, negligence, carelessness or omission.

(3) An order made in terms of subregulation (2) shall be served on the member concerned and the amount mentioned in such order shall, subject to the provisions of subregulation (5), be a debt due to the State.

(4) The person authorised in terms of subregulation (2) to issue an order against a member shall, subject to the provisions of subregulation (5), also be competent to order that the

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amount owing be recovered from the member in such manner and on such conditions as may be prescribed in consultation with the Treasury.

(5) Any member who is aggrieved by an order made against him or her in terms of subregulation (2) by a commanding officer or other officer authorised by the Inspector-General, may within a period of one calendar month from the date on which the order was served on him or her in accordance with subregulation (3), or such further period as the Inspector-General may allow, appeal in writing to the Inspector-General against such order.

(6) After consideration of the appeal and any relevant documents and after such further investigation as may be considered necessary, the Inspector-General may either confirm the order or, with due regard to any directions by the Treasury, exempt the appellant either wholly or in part, as may appear to be just and reasonable, from the provisions of such order.

Payment by the public for police services

26. (1) The Inspector-General shall, with due regard to the provisions of sections 13 and 14 of the Act, determine whether a particular function, duty or service falls within the scope of the normal and generally accepted responsibilities of the Force, and if such function, duty or service does not fall within such scope, it shall, subject to the provisions of subregulation (2), be performed only on such conditions as may be prescribed in consultation with the Treasury.

(2) Notwithstanding the provisions of subregulation (1), the Inspector-General may, subject to the directions of the Minister, authorise that any function, duty or service be carried out free of charge on behalf of any charity or in cases considered to be of general cultural or educational interest.

Deductions from salary

27. (1) From the salary, wage or allowance or other moneys to which a member (including a member deemed to have been discharged under section 9 of the Act) may be entitled, the Inspector-General may deduct any amount for which such member is liable to the State in respect of any -

- (a) fine, suspension, arrest, detention or imprisonment;
- (b) loss of or damage to State property or any property for which the State is responsible;
- (c) deficit, expense, loss, damage, injury or destruction caused by his or her misconduct or any wrongful act, negligence or carelessness on his or her part;
- (d) overpayment of salary or allowances;
- (e) rent for quarters and buildings provided by the State;
- (f) uniform, clothing and equipment issued against repayment;
- (g) authorised assignment of pay;
- (h) compulsory pension contribution;
- (i) compulsory medical aid contribution; and

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(j) official debt or any other liability of a like nature.

(2) Subject to the directions of the Treasury, any amount referred to in subregulation (1) may be deducted in full or in such monthly instalments as the Inspector-General may decide.

Dress, uniform and equipment

28. (1) The distinctive badges, buttons and insignia of rank of the Force shall be as set out in Schedule D.

(2) With due regard to the nature of his or her duties a member shall receive either -

(a) prescribed articles of uniform at public expense; or

(b) an allowance for civilian clothes as determined by the Treasury.

(3) Articles of uniform issued to any member in terms of subregulation (2)(a) shall remain the property of the Force and shall be returned when it is replaced or when such member resigns, is dismissed or discharged, unless he or she, with the consent of the Inspector-General, buys such article at a price determined by the Treasury, or with such consent, retains it without payment.

(4) The dress and clothing of the Force, and the control or disposal of any article of uniform or equipment by any member, shall be as prescribed by the Inspector-General.

Police clubs established under section 37 of the Act

29. (1) The Inspector-General may, with due regard to the directions of the Minister, establish a club as contemplated in section 37(1) of the Act, if in his or her opinion, the exigencies of the Force as such or of members at any particular place or in any particular area, so require.

(2) With the exception of the necessary accommodation or other necessities which may be provided by the State and such expenditure as the Inspector-General, in consultation with the Treasury, may authorise from public funds, such club shall be self-supporting.

(3) A club shall be conducted and controlled by a committee constituted in terms of such rules as the Inspector-General may prescribe.

[GN 166/2001 substitutes “club” for “canteen” in regulation 29. This has been interpreted to require the substitution of the plural “clubs” for canteens” as well.]

Participation in sport

30. Any member who takes part in any exercise, contest or competition of any sport approved by the Inspector-General and subject to the conditions which the Inspector-General may impose, shall in the case of any injury sustained in the course of such exercise, contest or competition, for the purposes of regulation C.30.1 of the Public Service Regulations be deemed to be on official duty.

Redress of wrongs

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31. (1) Any member who feels aggrieved by any act or omission on the part of any other member may complain in writing to his or her immediate commander, and if the grievance concerns such commander or if the latter is not empowered or is unable to redress the wrong or otherwise to satisfy the aggrieved member within a reasonable time, such member may refer the complaint to his or her commanding officer.

[The word "omission" is misspelt in the *Government Gazette*, as reproduced above.]

(2) If such commanding officer is not empowered or is unable to redress the wrong or otherwise to satisfy the aggrieved member, the commanding officer shall without unreasonable delay submit the complaint for decision to the Inspector-General.

(3) If the Inspector-General is unable to redress the wrong or otherwise to satisfy the aggrieved member, he or she shall, if such member so requests and if there appears to be prima facie grounds for such grievance, transmit the complaint to the Minister.

(4) Any member who refers a complaint to a higher authority in terms of this regulation, shall immediately notify the aggrieved member to that effect.

(5) Any member who has lodged a complaint with his or her commander or commanding officer, as the case may be, and whose grievance is not redressed or who has not otherwise been satisfied within a reasonable time, or who has not been advised within a reasonable time that his or her grievance had been referred to a higher authority, may complain directly to such higher authority and ultimately to the Inspector-General, but such member shall, when complaining to such higher authority or to the Inspector-General, simultaneously forward a copy of such further complaint to his or her commanding officer.

(6) The provisions of this regulation shall apply mutatis mutandis to any other grievance concerning the Force for which no express provision has been made in the Act or these regulations and which a member may desire to bring to the notice of a higher authority.

Abandoned, lost or unclaimed property

32. (1) A member who finds, takes charge of or otherwise comes into possession of abandoned, lost or unclaimed property, shall hand in such property at a police station for safe-keeping and ultimate disposal in accordance with the provisions of this regulation: Provided that -

- (a) live-stock shall be sent to the nearest pound for disposal in accordance with the provisions of the pound laws which apply in respect of the particular area; and
- (b) if any other law provides for the disposal of such property, the provisions of such law shall be complied with.

(2) Particulars of the property referred to in subregulation (1) shall be recorded in registers prescribed by the Inspector-General and stored in the manner prescribed by him or her until such property can be disposed of in accordance with the provisions of this regulation or any other law.

(3) If the name and address of the owner or a person apparently entitled to possess the property mentioned in subregulation (1) is or becomes known and his or her possession thereof is not in conflict with any law, he or she shall, with due regard to subregulation (1), be called upon by written notice, either served on him or her in person or sent by registered post to his or

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her last-known address, to claim such property, which may then be delivered to him or her provided he or she is prepared to -

- (a) defray any expenditure which may be incurred in taking care of, storing, maintaining or advertising the property or which may be incurred in the delivery thereof; and
- (b) give a receipt therefor and, if so required, sign an indemnity on the prescribed form:

Provided that if the property referred to in subregulation (1) is a motor vehicle and the owner or a person apparently entitled to the possession of such vehicle fails within 30 days of a notice, as prescribed in this regulation, having been served on or sent to him or her to take possession of such vehicle subject to the provisions of this regulation, the vehicle may be sold by public auction and the proceeds shall, subject to the provisions of subregulation (8), be paid into the State Revenue Fund.

(4) If such property remains in police custody for a reasonable time without being claimed and the name and address of the owner or any person apparently entitled thereto cannot be ascertained in the ordinary course of police functions, particulars thereof shall, subject to subregulation (1) and with due regard to the provisions of section 13 of the Act, be advertised or circulated in accordance with the directions of the Inspector-General: Provided that -

[The word "accordance" is misspelt in the *Government Gazette*, as reproduced above.]

- (a) the property concerned shall bear sufficient distinctive marks to enable it to be identified on a description; and
- (b) the estimated value thereof is considered sufficient to justify the expenditure.

(5) Unless property as referred to in subregulation (1) has in terms of paragraph (a) or (b) of that subregulation or subregulation (3) been disposed of or is likely to be disposed of within a reasonable time and the possession of such property by the *bona fide* finder is not in conflict with any law, such finder may, if he or she can be located, be called upon by way of written notice either served on him or her personally or sent by registered post to his or her last-known address to claim such property subject to the provisions of subregulation (7)(a), after the expiry of three calendar months or, in the case of property of low value, one calendar month reckoned from the date on which such property was handed in, which property may then be delivered to him or her provided he or she is prepared to comply with the provisions of subregulation (3)(a) and (b), which shall apply *mutatis mutandis* to this matter.

(6) Property referred to in subregulation (1) which has not been or cannot be disposed of in accordance with the provisions of paragraphs (a) and (b) of that subregulation or subregulation (3) or (5) shall, with due regard to the provisions of subregulation (7) and the directions of the Inspector-General, at the expiry of the periods referred to in subregulation (5), be sold by public auction, and the proceeds shall be paid into the State Revenue Fund: Provided that where such property can be used by the Force in any manner for official purposes, the Inspector-General may appropriate any such property for such purpose.

- (7) Notwithstanding any provision to the contrary contained in this regulation -

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- (a) a *bona fide* finder who is a member shall not be entitled to claim or receive any property which was handed in by him or her in accordance with the provisions of subregulation (1);
 - (b) any commander or officer may extend any period referred to in subregulation (5) or (6) if he or she is of the opinion that a particular article is exceptionally valuable or of intrinsic value or if he or she is of the opinion that there is a sound reason for such extension;
 - (c) property of a perishable nature or which is apparently valueless and not claimed within a reasonable time after the date on which it was taken charge of, may forthwith but subject to the directions of the Inspector-General and with due regard to the nature and condition thereof, either be delivered to the *bona fide* finder or sold or destroyed;
 - (d) but subject to the provisions of any other law and with due regard to the directions of the Treasury, a procedure may be prescribed by the Inspector-General for the disposal of explosives, arms, ammunition, liquor, money, negotiable instruments, stamps, money orders, postal orders, deposit books, uniforms, medals and all other articles of whatever nature, which are handed in at a police station in accordance with the provisions of subregulation (1) and then possession, purchase or sale of which is controlled or prohibited by any such law or the sale of which by public auction is, in the opinion of the Inspector-General, undesirable.
- (8) If property which was taken charge of or stored, is sold in terms of subregulation (6) or by order of the Inspector-General, the proceeds of the sale, less any expenditure of whatever nature in connection with the transport, safe-keeping, storage, care, advertising or sale of such property, may be refunded to the lawful owner or any other person who is entitled thereto.
- (9) For the purposes of this regulation “public auction” shall mean any sale by a licensed auctioneer at a public sale or, at places where the services of such an auctioneer are not available, any sale in public at premises under the control of the police and by a member who is authorised by his or her commander to sell, after public notice in the manner prescribed by the Inspector-General has been given at least seven days prior to the intended sale in the vicinity of the premises concerned, any property which has been abandoned, lost or unclaimed.

Departures in time of war or national emergency

33. If a state of war or national emergency arises, the Inspector-General may, subject to the provisions of the Act and section 7(3) of the Public Service Act, 1980 (Act 2 of 1980), authorise a departure from the provisions of these regulations, either in general or in respect of a particular member.

Advisory Board

34. (1) The Advisory Board established by section 43B(1) of the Act consists of such members, being not less than five and not more than seven, as the Minister may appoint, subject to subregulation (3), from amongst persons who have expertise relevant to the functions of the Board and of whom the majority must be persons who are not staff members employed in the Public Service.

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(2) A member of the Advisory Board holds office for a period of three years, and is eligible for reappointment.

(3) A person does not qualify for appointment as a member of the Advisory Board if he or she has during the period of ten years immediately preceding the establishment of the Advisory Board or at any time after that date, been convicted of a criminal offence and sentenced to imprisonment without the option of a fine.

(4) The members of the Advisory Board must elect from among their number the chairperson of the Advisory Board.

(5) If the chairperson is for any reason unable to preside at a meeting of the Advisory Board, the members present must elect another member to preside at that meeting.

(6) A member who is in the full time employment of the Public Service must be paid such allowances or other remuneration in respect of his or her service as a member of the Advisory Board as the Minister, with the concurrence of the Minister of Finance, may determine.

(7) The Board determines the procedures to be followed at its meetings.

(8) The Chairperson must cause a proper record to be kept of the proceedings of a meeting of the Advisory Board and submit that record to the Minister as soon as possible after the meeting of the Board.

(9) The first meeting of the Board must under the chairmanship of the Minister at the place and time as determined by the Minister and thereafter meetings must be held at places and times as the Advisory Board may determine, but a meeting must be held at least twice a year.

[regulation 34 inserted by GN 166/2001]

Flag of Namibian Police force

[The word "Force" in the heading should be capitalised.]

35. There is a flag of the Namibian Police Force as described in Schedule E.

[Regulation 35 is inserted by GN 238/2014, correcting errors in the initial insertion of this section by GN 56/2011.]

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SCHEDULE A

(Regulation 5(2)(a)(vi) and (5))

**ACCESSION TO OFFICE ON APPOINTMENT
AND ENROLMENT**

I, solemnly state

- (a) that I shall defend and uphold the Constitution of Namibia;
- (b) that I shall perform my duties as a member of the Namibian Police to the best of my ability, and in particular, faithfully and impartially -
 - (i) preserve the internal security of Namibia;
 - (ii) maintain law and order;
 - (iii) investigate any offence or alleged offence; and
 - (iv) prevent crimes and protect life and property;
- (c) that I shall abide by the provisions of the Police Act, 1990 (Act 19 of 1990), and any regulations or rules made thereunder and obey any orders or instructions issued in pursuance of the said Act, regulations or rules.

I know and understand the contents of this declaration. I object / do not have any objection* to taking the prescribed oath. I consider / do not consider* the prescribed oath to be binding on my conscience.

* I swear that the contents of this declaration are true.

SO HELP ME GOD

* I truly affirm that the contents of this declaration are true.

.....
SIGNATURE OF WITNESS

.....
SIGNATURE OF DEPONENT

I certify that the deponent has acknowledged that he/ she knows and understands the contents of this declaration, which was sworn to/ affirmed*

before me on this day of 19

and signed in my presence.

DATE:

PLACE:

.....

SIGNATURE OF
COMMISSIONER OF OATHS

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PLEASE PRINT

FULL NAMES:

BUSINESS ADDRESS:

DESIGNATION (RANK): EX OFFICIO

• *Delete the words not applicable*

SCHEDULE B

(Regulation 6)

NAMIBIAN POLICE

CERTIFICATE OF APPOINTMENT

This is to certify that

has on been appointed a member of the

Namibian Police and that he/she holds the rank of

since

Signed by me this day of 19

PLACE:

.....
**INSPECTOR-GENERAL OF
THE NAMIBIAN POLICE**

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SCHEDULE C

[Schedule C is substituted by GN 143/1996, GN 55/2002, GN 252/2010 and GN 298/2013.]

(Regulation 8(1))

RANKS IN THE FORCE

Members, excluding auxiliary members:

- (a) Commissioned Officers:
 - (i) General; (Reserved)
 - (ii) Lieutenant-General;
 - (iii) Major-General;
 - (iv) Commissioner;
 - (v) Deputy Commissioner;
 - (vi) Chief Inspector; and
 - (vii) Inspector.
- (b) Non-Commissioned Officers:
 - (i) Warrant Officer (1);
 - (ii) Warrant Officer (2);
 - (iii) Sergeant (1);
 - (iv) Sergeant (2);
 - (v) Constable; and
 - (vi) Cadet Constable.

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SCHEDULE D

[Schedule D is substituted by GN 143/1996, GN 55/2002, GN 252/2010 and GN 298/2013.]

(Regulation 28(1))

BADGES, BUTTONS AND INSIGNIA OF RANK

1. Badges

- (a) A twelve-pointed sun, in the centre of which appears the coat-of-arms of the Republic of Namibia within a circle. The words “Namibian Police” appear as circumscription on the rim of the circle, above the coat-of-arms.
- (b) A shoulder-flash depicting the National Flag of the Republic of Namibia. The words “Police” and “Namibia” appear above and below the flag, respectively, on the flash.

2. Buttons

Dome-shaped, embossed with the badge as described in paragraph 1(a).

3. Insignia of Rank

- (a) General Crossed sword and baton, followed by three suns in a triangle, followed by another sun and a coat-of arms within a laurel wreath;
- (b) Lieutenant-General Crossed sword and baton, followed by three suns and a coat-of-arms within a laurel wreath;
- (c) Major-General Crossed sword and baton, followed by two suns and a coat-of-arms within a laurel wreath;
- (d) Commissioner Crossed sword and baton, followed by a sun and a coat-of-arms within a laurel wreath;
- (e) Deputy Commissioner Three suns in a triangle followed by a coat-of-arms within a laurel wreath;
- (f) Chief Inspector A sun below a coat-of-arms within a laurel wreath;
- (g) Inspector Three suns;
- (h) Warrant Officer (1) A Coat-of-arms within a laurel wreath;

[The word “coat-of-arms” should not be capitalised.]

- (i) Warrant Officer (2) A sun within a laurel wreath;
- (j) Sergeant (1) A three-bar chevron below a coat-of-arms within a laurel Wreath;
- (k) Sergeant (2) A three-bar chevron below a sun;

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- (l) Constable No insignia is allocated to this rank;
- (m) Cadet Constable No insignia is allocated to this rank.

SCHEDULE E

[Schedule E is inserted by GN 56/2011 and replaced by GN 238/2014.]

(Regulation 35)

FLAG OF THE NAMIBIAN POLICE FORCE

1. The flag of the Namibian Police Force is rectangular in shape with the hoist length two-thirds of the length of the fly.
2. The flag of the Namibian Police Force has a blue field, similar in colour to that of the National flag with a bend reversed in chilli red colour occupying one quarter of the width (hoist) of the flag.
3. The National flag of the Republic of Namibia in full colours must be in the first guardant in the hoist of the flag as defined in Schedule 6 of the Constitution of the Republic of Namibia.
4. The colours of the National flag and the other flag is separated by a narrow white band.

[The verb "is" should be "are" to be grammatically correct.]

5. In the second quadrant in the hoist of the flag of the Namibian Police Force, the Police emblem, golden dodecal star annuletting the Coat of Arms of the Republic of Namibia, the diameter of which is one third of the width (hoist) of the flag, with its vertical axis one-fifth of the distance from the edge of the fly or four-fifths from the edge of the hoist.
6. The flag of the Namibian Police Force must always take a secondary position when flown or hoisted together with the National flag which must be flown at a height of approximately 1 800 millimeters higher than the other flags.