

## **Nru. 40**

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7. 1. 98

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

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ABBOZZ ta' Liġi mressaq mill-Onorevoli Alfred Sant, M.P., Prim Ministru, u moqri għall-Ewwel darba fis-Seduta ta' 1-20 ta' Ottubru, 1997.

**ATT** biex jipprovdi dispożizzjonijiet ġodda li għandhom x'jaqsmu mal-Korp tal-Pulizija ta' Malta u biex jintroduċi emendi konsegwenzjali fil-Kodiċi Kriminali, Kap. 9.

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**RICHARD J. CAUCHI**

*Skrivan tal-Kamra tad-Deputati*

#### **HOUSE OF REPRESENTATIVES**

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A BILL introduced by the Honourable Alfred Sant, M.P., Prime Minister, and read the First time at the Sitting of the 20th October, 1997.

**AN ACT** to make new provisions regarding the Malta Police Force and to introduce consequential amendments to the Criminal Code, Cap. 9.

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**RICHARD J. CAUCHI**

*Clerk of the House of Representatives*

## ABBOZZ TA' LIĠI msejjah

*ATT biex jipprovdi dispożizzjonijiet godda li għandhom x'jaqsmu mal-Korp tal-Pulizija ta' Malta u biex jintroduci emendi konsegwenzjali fil-Kodiċi Kriminali, Kap. 9.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej: —

1. Dan l-Att jista' jissejjah l-Att dwar il-Forzi tal-Pulizija ta' Malta, 1997. Titolu fil-qosor.

2. Il-Korp tal-Pulizija ta' Malta, imwaqqaf taht l-Ordinanza Dwar il-Pulizija ta' Malta, għandu jkun regolat skond il-“Kodiċi tal-Pulizija” li jidher fl-Iskeda I li tinsab ma' dan l-Att. Il-Kodiċi tal-Pulizija.

3. Il-Prim Ministru għandu b'avviż jistabbilixxi: Bidu fis-sehh tal-Kodiċi tal-Pulizija.

(a) id-data tal-bidu fis-sehh tal-Kodiċi tal-Pulizija, u,

(b) id-data tal-bidu fis-sehh ta' l-emendi għall-Kodiċi Kriminali:

Izda jistgħu jiġu stabbiliti dati differenti għal dispożizzjonijiet differenti jew għal skopijiet differenti ta' l-imsemmi Kodiċi.

4. Il-Kodiċi Kriminali għandu jkun emendat skond id-dispożizzjonijiet li jinsabu fl-Iskeda II li tinsab ma' dan l-Att. Emendi konsegwenzjali għall-Kodiċi Kriminali.

Dhul tal-Kodiċi tal-Pulizija fil-Liġijiet ta' Malta.

5. Wara d-dhul fis-sehh tal-Kodiċi tal-Pulizija u wara t-tħassir tal-Kodiċi tal-Liġijiet tal-Pulizija (Kap. 10), il-Kodiċi tal-Pulizija għandu jkun imdahhal bhala l-Kapitlu 10 il-ġdid tal-Liġijiet ta' Malta.

Thassir u riżerva. Att Nru. XVII ta' l-1996.

6. (1) Mad-dhul fis-sehh tad-dispożizzjonijiet kollha tal-Kodiċi tal-Pulizija, l-Ordinanza Dwar il-Pulizija ta' Malta u l-Att dwar is-Servizzi tas-Sigurtà għandhom ikunu mhassra.

(2) It-tħassir ta' l-Att dwar is-Servizzi tas-Sigurtà m'għandux jaffettwa xi emendi konsegwenzjali li saru f'xi liġi oħra li saru bl-Att imsemmi, li għandhom jibqgħu fis-sehh.

Il-Maġistrat Inkwirenti.

7. Mad-dhul fis-sehh tad-dispożizzjonijiet tal-Kodiċi tal-Pulizija u ta' l-emendi fil-Kodiċi Kriminali li għandhom x'jaqsmu mal-Maġistrat Inkwirenti, u mal-hatra ta' dak il-Maġistrat Inkwirenti, kull inkjesta li tista' tkun għadha pendent quddiem Maġistrat tal-Qorti tal-Maġistrati għandha tintbagħat quddiem u tkun mitmuma minn Maġistrat Inkwirenti.

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(Artikolu 2)

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2. Tifsir

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4. Għanijiet
5. Il-President
6. Il-Ministru
7. Il-Kummissarju u uffiċjali

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31. Proċeduri quddiem il-Kummissarju
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33. Provi u Regoli Proċedurali
34. Każijiet delegati
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38. Pieni esklużi
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40. Hsara f'taġhmir jew telf tiegħu
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## TAQSIMA I

### Ġenerali

#### *Titolu fil-qosor*

1. Dan l-Att jista' jissejjah il-Kodiċi tal-Pulizija.

#### *Tifsir*

2. F'dan il-Kodiċi, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra -

“il-Korp” tfisser il-Korp tal-Pulizija ta' Malta;

“interċettazzjoni”, b' konnessjoni ma' mandati, tinkludi teħid tal-pussess, tifrik, distruzzjoni, ftuh, interruzzjoni, soppresjoni, twaqqif, sekwestru, smiġh ukoll jekk bil-moħbi, sorveljanza, reġistrazzjoni, ikkupjar, u smiġh u viżjoni ta' komunikazzjonijiet u l-estrazzjoni ta' informazzjoni mill-istess komunikazzjonijiet;

“Kummissarju” tfisser il-Kummissarju tal-Pulizija;

“lokal” tfisser kull post, vettura, vapur, inġenji tal-ajru jew bċejjeċ tal-baħar inklużi stallazzjonijiet *off-shore*, jew kull struttura temporanja jew mobbli;

“materjal eskluż” tfisser:

(a) *records* personali kif imfisser hawn taħt, akkwistati jew maħluqa minn persuna matul l-eżerċizzju ta' xi kummerċ, negozju, professjoni jew okkupazzjoni ohra, jew għal finijiet ta' xi kariga bi hlas jew bla hlas u li huma miżmuma kunfidenzjalment minn dik il-persuna;

(b) tessut uman jew fluwidu tessutali meħud għall-finijiet ta' dijanjosi, jew trattament mediku u li dik il-persuna żżomm kunfidenzjalment;

(ċ) materjal ġurnalistiku li jkun materjal miżmum kunfidenzjalment minn ġurnalista liema materjal kien irċevih, akkwistah jew holqu għal użu f'xogħol ġurnalistiku;

“membru tal-Korp” tfisser kull uffiċjal tal-Pulizija minbarra l-Kummissarju;

“oġġetti soġġetti għal privileġġ legali” tfisser kull komunikazzjoni bejn avukat u l-klijent tiegħu u kull dokument jew *records* li jkunu annessi ma' jew li ssir referenza għalihom fl-istess komunikazzjoni u magħmula għall-finijiet tal-ghoti ta' parir legali jew b'konnessjoni ma' jew b'kontemplazzjoni ta' xi proċeduri legali u għall-finijiet ta' dawk il-proċeduri, iżda l-espressjoni ma tinkludix oġġetti miżmuma għat-tkomplija ta' finijiet kriminali;

“preskritt” tfisser preskritt b'regolamenti magħmula taht dan il-Kodiċi;

“proċess verbal” tfisser ir-*record* imhejji minn uffiċjal tal-Pulizija biex jirreġistra l-okkorrenza ta' xi grajja, liema *record* għandu jigi mhejji skond id-dispożizzjonijiet ta' dan il-Kodiċi u li qabel kien komunement magħrufa bhala “okkorrenza”;

“Pulizija” tfisser il-Korp tal-Pulizija ta' Malta;

“*records* personali” tfisser *records* dokumentati jew *records* oħra li għandhom x'jaqsmu ma' individwu (kemm haj u kemm mejjet) li jista' mill-istess jiġi identifikat u li fihom referenza -

(a) għas-sahha fiżika jew mentali tiegħu; jew

(b) għal pariri jew għajnuna spiritwali mogħtija jew li se tiġi mogħtija lilu; jew

(ċ) għal pariri jew għajnuna mogħtija jew li se tiġi mogħtija lilu, għall-finijiet tal-ġid personali tiegħu;

“reċint” ma tinkludix l-artijiet imdawrin bil-hitan tas-sejjieh;

“Uffiċjal Gazzettjat” tfisser kull uffiċjal tal-Pulizija tar-rank ta'spettur jew fuqu;

“uffiċjal tal-Pulizija” tfisser kull persuna li tkun isservi fil-Korp, u tinkludi l-Kummissarju.

## TAQSIMA II

### TWAQQIF

#### *Twaqqif*

3. Għandu jkompli jkun hemm korp tal-Pulizija magħruf bhala l-Korp tal-Pulizija ta' Malta.

*Ghanijiet*

4. L-ghanijiet ewlenija tal-Pulizija huma -

(a) il-promozzjoni u l-infurzar tal-harsien tal-liġijiet, bhala l-ewwel garanzija tad-drittijiet ta' kull persuna f'Malta, anki qabel ikun hemm bżonn li jittiehdu passi quddiem is-sistema ġudizzjarja biex jiġi mraġġan, sanzjonat jew rimedjat xi ksur;

(b) li taġixxi bhala rispons immedjat ghad-drittijiet tal-individwu, biex tfittex il-protezzjoni u l-intervent tal-liġi u b'hekk kull membru tal-Korp ikollu sehem fis-sistema tal-ġustizzja;

(c) li turi permezz tal-azzjonijiet taghha li l-liġi hi ugwali u ġusta ghal kulhadd;

(d) li tteġġeg li l-persuni kollha f'Malta li jghixu flimkien b'mod dixxiplinat u fil-paċi, ghal liema ghan ghandha tinghata attenzjoni xierqa mhux biss lid-drittijiet ta' proprjeta' jew hwejjeġ individwali imma wkoll lil kull haġa li tappartjeni lill-kommunita';

(e) li tfittex il-harsien ta' l-ambjent bhala parti mill-ġid komuni;

(f) li tassisti, f'limiti raġonevoli, kull persuna li tfittex għajnuna, wkoll jekk m'hijiex fl-ahharnett ir-responsabbiltà tal-Pulizija li jaghtu l-istess għajnuna, imma li dik il-persuna tirrikorri ghand il-Pulizija bhala ufficjal pubbliku li hu habib u aċċessibbli ghaluha;

(g) li taqdi b'onesta' u b'efficjenza d-dmirijiet kollha li jirrizultaw minn dan il-Kodiċi jew minn liġijiet ohra li jpoġġu dmir fuq il-Pulizija.

*Il-President*

5. (1) Il-President tar-Republika ghandu jkun l-Kap tal-Korp tal-Pulizija ta' Malta.

(2) Il-President jista' jindirizza messaġġi ta' parir lil Korp tal-Pulizija ta' Malta, meta bhala Kap ta' Stat, ihoss il-htieġa b'referenza ghal kwistjonijiet li huma ta' interess publiku jew li ghandhom x'jaqsmu mar-reputazzjoni tajba tal-Korp.

(3) Kull messaġġ ghandu jsir bil-miktub u jiġi komunikat lill-Kummissarju.

*Ministru*

6. Ghandu jkun hemm Ministru tal-Gvern, hawnhekk iżjed 'il quddiem imsejjah il-"Ministru", li jkun responsabbli għall-Pulizija.

*Kummissarju u uffiċjali*

7. (1) Il-Korp ghandu jkun magħmul minn Kummissarju, Deputat Kummissarju u minn dawk l-uffiċjali l-oħra tal-Pulizija ta' dawk ir-rankijiet li jistgħu minn żmien għal żmien ikunu approvati mill-Prim Ministru.

(2) Il-Kummissarju ghandu jkollu l-kmand, id-direzzjoni, l-amministrazzjoni u s-sorveljanza tal-Korp.

(3) Il-Kummissarju jirrapreżenta lill-Korp f'kull proċedimenti ġudizzjarji.

(4) Kull għemil jew haġa li tista' ssir, tiġi ordnata jew magħmula mill-Kummissarju tista', bla hsara għall-ordnijiet u direttivi tal-Kummissarju, ssir jew tiġi ordnata jew magħmula mid-Deputat Kummissarju jew minn Assistent Kummissarju.

**TAQSIMA III****HATRIET U KUNDIZZJONIJIET***Hatriet*

8. Il-hatra ta' kull uffiċjal tal-Pulizija għandha ssir b'dawk il-kundizzjonijiet, rekwiżiti u livelli li jistgħu jkunu preskritti minn dan il-Kodiċi, jew b'xi regolamenti jew ordnijiet mahruġin taht dan il-Kodiċi.

*Ubbidjenza*

9. Kull membru tal-Korp ghandu, fil-qadi ta' dmirijietu, minnufih u minghajr sfida jobdi l-ordnijiet legittimi mogħtija mill-Kummissarju jew mis-superjuri fir-rank ta' dak il-membru.

*Attivitajiet Inkompatibli*

10. Kull uffiċjal tal-Pulizija ghandu jagħti l-hin kollu tiegħu għas-servizz tal-Korp, u ma għandux imexxi jew ikollu x'jaqsam ma' xi xorta ta' negozju, kummerċ jew professjoni jew xogħol *part-time* ikun liema jkun, sakemm ma jkunx ngħatalu qabel il-permess bil-miktub tal-Kummissarju li għandu jimxi skond il-kriterji li jistgħu jiġu stabbiliti għal uffiċjali pubbliċi fis-servizz pubbliku.

*Għoti ta' Dmirijet*

11. Kull membru tal-Korp jista' jiġi stazzjonat f'dawk il-postijiet li l-Kummissarju jista' minn żmien għal żmien jistabbilixxi:

Iżda l-Kummissarju m'għandux, mingħajr raġuni valida, jistazzjona uffiċjali għal perijodi ndefiniti f'postijiet, li minhabba d-distanza, jistgħu jgħallqu tbatija lill-uffiċjal tal-Pulizija jew lill-familja tiegħu, jew fejn l-imparzjalità tal-uffiċjal tal-Pulizija tista', minhabba rabtiet komunitarji, tkun dubitata.

### *Tahriġ*

12. (1) Kull membru tal-Korp għandu jagħmel it-tahriġ u joqgħod għal dawk it-testijiet, provi jew eżamijiet li l-Kummissarju jista' minn żmien għal żmien jistabbilixxi.

(2) Dawn it-testijiet, provi jew eżamijiet isiru fuq perijodu ta' żmien, biex ikunu valutati l-effiċjenza u l-kapaċitajiet professjonali u jistgħu jinkludu wkoll testijiet mediċi ta' rutina biex jiġi aċċertat li kull membru jkun adatt għall-Korp.

### *Stat Inerenti*

13. Kull uffiċjal tal-Pulizija għandu jitqies li jkun uffiċjal tal-Pulizija fil-hinijiet kollha:

Iżda din id-dispożizzjoni tkun mingħajr hsara għad-drittijiet tal-uffiċjal tal-Pulizija għal hlas, u taht ċirkustanzi normali għal sığhat ta' xogħol, mistrieħ u vakanzi, u kundizzjonijiet simili tal-impjeg tiegħu.

### *Skedi ta' Xogħol u Benefiċċji*

14. (1) Il-Kummissarju għandu jagħti lil Assistent Kummissarju d-dmir li jissorvelja t-tqassim ta' dmirijiet bix-*shift*, biex jiżgura li dan isir b'mod ġust u ekwu.

(2) L-istess Assistent Kummissarju għandu wkoll jiżgura li jkun hemm tqassim ekwu tad-dmirijiet li jkollhom xi benefiċċji jew hlas addizzjonali.

### *Ilmenti*

15. (1) Uffiċjal tal-Pulizija li jhossu aggravat li mhux qieghed jiġi trattat ġustament skond id-dispożizzjonijiet ta' l-artikoli ta' qabel, jista' japplika direttament għand l-Assistent Kummissarju li għandu jhejji rapport għall-Kummissarju biex dan jagħti d-deċiżjoni tiegħu, kemm-il darba ma tinstabx soluzzjoni fi żmien xahar.

(2) Kopja tar-rapport imhejji mill-Assistent Kummissarju għandha tingħata lill-uffiċjal aggravat.

### *Konsultazzjonijiet dwar trasferimenti*

16. Il-Kummissarju ghandu jikkonsulta ma' l-oghla ufficjal fir-rank ta' xi fergħa jew diviżjoni, meta jkun se jsehh trasferiment ta' persunal.

### *Bord għar-Reklutaġġ u Promozzjonijiet*

17. (1) Il-Bord għar-Reklutaġġ u Promozzjonijiet ghandu jinhatar mill-Ministru u jkun magħmul minn żewġ membri nominati mill-Avukat Ġenerali, żewġ membri magħzula mill-Bord tal-Pulizija, membru magħzūl mill-Bord tal-Akkademja tal-Pulizija, u Imhallel jew Imhallel irtirat li jkun iċ-“Chairman”.

(2) Bla ħsara għad-dispożizzjonijiet ta' l-artikolu 110 tal-Kostituzzjoni, il-proċeduri, kriterji, testijiet, eżamijiet u rekwiżiti għar-reklutaġġ jew promozzjonijiet għandhom jiġu stabbiliti mill-Kummissarju, u għandhom jiġu riveduti ta' l-anqas kull tliet snin.

(3) Il-Kummissarju ghandu jitlob il-parir tal-Bord għar-Reklutaġġ u Promozzjonijiet, imwaqqaf taht dan l-artikolu, qabel ma jagħti promozzjonijiet interni bis-saħħa ta' xi setgħat delegati lilu taht l-artikolu 110 tal-Kostituzzjoni jew biex jagħmel rakkomandazzjonijiet kif meħtieġ mill-artikolu msemmi.

### *Gurament tal-kariga*

18. (1) Ebda persuna mahtura fil-Korp, hlief bi promozzjoni fil-Korp, ma għandha tidhol għad-dmirijiet tal-kariga tagħha, jew taġixxi b'xi mod dwar hekk, qabel ma tkun hadet il-ġurament tal-kariga muri fl-Ewwel Skeda li tinsab ma' dan il-Kodiċi.

(2) Dan il-ġurament għandu jittieħed u jiġi ffirmat mill-ufficjali kollha quddiem persuna li għandha s-setgħa bil-liġi li tagħti ġurament, jew quddiem il-Kummissarju.

(3) Il-Kummissarju għandu jieħu l-ġurament tal-kariga quddiem il-President skond l-Ewwel Skeda li tinsab ma' dan il-Kodiċi.

### *Riżenji*

19. (1) L-ebda membru tal-Korp ma jista' jirriżenja mill-Korp jew jirtira mid-dmirijiet tiegħu fil-Korp jekk ma jkunx espressament imholli jagħmel dan bil-miktub mill-Ministru.

(2) Kull membru tal-Korp li jixtieq jirriżenja jew jirtira mid-dmirijiet tiegħu għandu jagħti avviż bil-quddiem lill-Ministru, ta' mhux iżjed minn tletin ġurnata, kif il-Ministru jista' jeħtieġ, fejn jagħti r-raġunijiet tiegħu, għaliex bi ħsiebu jirriżenja jew jirtira mid-dmirijiet tiegħu, skond il-każ.

(3) F'gheluq iż-żmien tal-avviż moghti skond is-subartikolu (2) il-Ministru ghandu jaghti lill-membri tal-Korp li ghalih jirreferi l-avviż permess biex jirriżenja jew jirtira mid-dmirijiet tiegħu, skond il-każ, kemm-il darba -

(a) ma jkunx is-sugġett ta' proċeduri dixxiplinari, li ma jkunx ghadhom ġew deċiżi, quddiem il-Kummissjoni dwar is-Servizz Pubbliku; jew

(b) ma jkunx akkużat b'reat quddiem qorti ta' ġurisdizzjoni kriminali; jew

(c) ma jkunx xort'ohra ġab ruhu b'mod li jkun jista' jiġi mkeċċi jew imnehhi mill-Korp.

(4) Kull membru tal-Korp li ż-żmien tal-avviż tiegħu jagħlaq matul il-ġrajja jew periklu ta' ġrajja ta' ostilitajiet, diżordni intern jew emerġenza gravi ohra ta' kull xorta, jista' jiġi miżmum u s-servizz tiegħu mtawwal għal dak iż-żmien iehor, ta' mhux aktar minn tmax-il xahar, skond ma l-Ministru jista' jordna.

#### *Tneħħija mill-kariga*

20. Il-Prim Ministru jkun jista' jneħħi mill-kariga tiegħu f'kull żmien uffiċjal tal-Pulizija li —

(a) ikun meqjus li aktarx ma jistax ikun jew baqax uffiċjal effiċjenti tal-Pulizija; jew

(b) ma jkunx jista' minhabba xi mard tal-mohħ jew tal-ġisem jaqdi d-dmirijiet tal-kariga tiegħu meta dak il-mard aktarx ikun permanenti; jew

(c) ikun meqjus li, wara li jiġu kkunsidrati l-kundizzjonijiet tal-Korp, l-utilità ta' l-uffiċjal għall-Korp, u ċ-ċirkostanzi kollha tal-każ, ma ghandux fl-interess pubbliku jibqa' jservi aktar bhala membru tal-Korp.

#### *Uniformijiet u Mhażen*

21. (1) Meta uffiċjal tal-Pulizija jieqaf milli jkollu u jeżerċita l-kariga tiegħu ghandu minnufih jaghti lura lil dik il-persuna li u f'dak il-hin u post kif il-Kummissarju jordna, l-armi, il-munizzjon, l-accoutements, l-uniformijiet u hwejjeġ ohra u tagħmir kollu li jkunu ġew mogħtija lilu għas-spejjeż tal-pubbliku u li l-Kummissarju jordnalu li jagħti lura.

(2) Il-Kummissarju jista' jordna lil kull persuna li ghandha kustodja jew pussess ta' xi wiehed mill-oġġetti msemmija fis-subartikolu (1) li kienu fil-pussess ta' persuna li kienet uffiċjal tal-Pulizija li tikkunsinna dawk l-oġġetti f'dak il-post u lil dik il-persuna kif il-Kummissarju jista' jistabbilixxi.

*Reati*

22. (1) Kull persuna li tirrifjuta jew volontarjament tonqos milli thares ordni moghti mill-Kummissarju skond l-artikolu 21 tkun hatja ta' reat kriminali u wara li tinsab hatja, tista' tehel il-piena ta' prigunerija ghal żmien ta' mhux iżjed minn tliet xhur jew multa ta' mhux aktar minn mitt lira Maltin.

(2) Kull persuna li b'negligenza tonqos milli thares ordni moghti mill-Kummissarju skond l-artikolu 21 ikollha thallas bhala dejn ċivili lill-Korp il-valur ta' dak l-oġġett li ma ġiex moghti lura.

*Il-Bord tal-Pulizija għan-Negożjar*

23. (1) Ghandu jkun hemm Bord tal-Pulizija għan-Negożjar biex jiġu kkunsidrati kwistjonijiet mqajjma minn naha uffiċjali jew minn naha ta' l-istaff, kif hawn taht deskritt, b'riferenza għas-siġhat ta' xogħol, pensjonijiet, vakanzi, paga u *allowances*, u kundizzjonijiet ohra tax-xogħol.

(2) Il-Bord tal-Pulizija għan-Negożjar ghandu jkollu n-naha uffiċjali u n-naħa ta' l-istaff, u *chairman* indipendenti mahtur mill-Prim Ministru.

(3) Il-naħa uffiċjali għandha tkun rappreżentata mis-Segretarju Permanenti fil-Ministeru responsabbli għall-Pulizija, is-Segretarju Permanenti fl-Uffiċċju tal-Prim Ministru, is-Segretarju Permanenti fil-Ministeru responsabbli għall-finanzi u s-Segretarju Permanenti fil-Ministeru responsabbli għall-ġustizzja.

(4) In-naħa ta' l-istaff għanda tkun magħmula minn erba' membri magħzula mill-Assoċjazzjoni tal-Pulizija ta' Malta:

Iżda jekk ikun hemm iktar minn waħda minn dawn l-assoċjazzjonijiet, in-numru ta' membri għandu jkun maqsum skond is-saħha ta' kull waħda minn dawn l-assoċjazzjonijiet, skond in-numru tal-membri tagħhom.

(5) Konsulenti ta' kull waħda miż-żewġ naħat jithallew jattendu għall-laqgħat tal-Bord.

*Il-Funzjonijiet tal-Bord tal-Pulizija għan-Negożjar*

24. (1) Il-Bord tal-Pulizija għan-Negożjar għandu jagħti rapport lill-Ministru fuq kull kwistjoni mqajjma skond is-subartikolu (1) ta' l-artikolu 23. Il-Ministru għandu jikkomunika d-deċiżjoni tiegħu dwar dan il-Bord tal-Pulizija għan-Negożjar, inkluża d-deċiżjoni li jerga' jibgħat il-kwistjoni lura darba waħda biss biex terġa' tiġi ikkunsidrata.

(2) F'każ ta' nuqqas ta' qbil mad-deċiżjoni tal-Ministru, (minbarra dawk li jordnaw kunsiderazzjoni mill-ġdid) in-naħa tal-istaff tista' titlob li l-kwistjoni tintbagħat għall-arbitraġġ.

### *Arbitraġġ*

25. Il-Prim Ministru għandu jahtar tliet arbitri indipendenti biex jiddeċiedu l-kwistjoni b'mod konkluziv.

## **TAQSIMA IV**

### **DIXXIPLINA**

#### *Reati minn uffiċjali tal-Pulizija fil-kompetenza tal-qrati*

26. (1) Kull uffiċjal tal-Pulizija li —

(a) meta jkun jaf b'xi ammutinament jew sedizzjoni fost il-Korp ma jagħmilx hiltu kollha biex irażżan dak l-ammutinament jew sedizzjoni; jew

(b) meta jkun jaf b'ammutinament jew sedizzjoni maħsuba fost il-Korp ma jagħtix bla dewmien taġhrif dwar hekk lill-uffiċjal superjuri tiegħu; jew

(ċ) meta jkun preżenti f'xi ġemgħat ta' nies b'tendenza għal irvell ma jagħmilx hiltu kollha biex irażżan dawk il-ġemgħat; jew

(d) jahrab; jew

(e) jipperswadi, jipprokura, jassissti jew jittanta li jipperswadi, jipprokura jew jassissti xi uffiċjal tal-Pulizija biex jahrab; jew

(f) meta jkun jaf li xi uffiċjal tal-Pulizija ħarab jew għandu hsieb li jahrab ma jagħtix bla dewmien taġhrif lill-uffiċjal superjuri tiegħu; jew

(g) isawwat lil jew juża vjolenza kontra uffiċjal iehor, waqt li dan l-uffiċjal ikun fil-qadi ta' dmirijietu,

ikun hati ta' reat kriminali u jkun jista' jehel, jekk jinstab hati, prigunerija għal żmien ta' mhux iżjed minn sena.

(2) Ebda uffiċjal tal-Pulizija ma għandu jinstab hati tar-reat ta' hrib kemm-il darba l-qorti ma tkunx sodisfatta li kien hemm il-ħsieb minn naħa ta' dak l-uffiċjal li ma jergax lura fil-Korp.

(3) Il-piena ikkuntemplata fis-subartikolu (1) ta' dan l-artikolu għandha tghodd kemm-il darba l-fatt ma jikkostitwix reat kriminali aktar serju skond il-

Kodiċi Kriminali jew xi liġi oħra, f'liema każ dak il-Kodiċi jew dik il-liġi l-oħra japplikaw.

#### *Kaġunar ta' diżaffezzjoni*

27. Kull persuna li —

(a) tikkaġuna jew tittanta li tikkaġuna, jew taghmel att maħsub biex jikkaġuna diżaffezzjoni fost uffiċjali tal-Pulizija; jew

(b) thajjar jew tittanta li thajjar jew taghmel att maħsub biex ihajjar uffiċjal tal-Pulizija biex ma jaghtix is-servizz tiegħu jew biex jikkommetti reat kontra d-dixxiplina,

tkun hatja ta' reat kriminali u tkun tista' tehel, jekk tinstab hatja, prigunerija għal żmien ta' mhux aktar minn sena.

#### *Reati kontra d-dixxiplina*

28. Kull membru tal-Korp li jikkommetti xi wiehed mir-reati li jidhru fit-Tieni Skeda li tinsab ma' dan il-Kodiċi jkun hati ta' reat kontra d-dixxiplina.

#### *Shubija f'organizzazzjonijiet*

29. Ladarba l-uffiċjali tal-Pulizija jistgħu jiffurmaw assoċjazzjoni jew assoċjazzjonijiet professjonali tagħhom, skond dan il-Kodiċi, huma jkunu hatja ta' reat kontra d-dixxiplina jekk ikunu jew isiru membri ta' xi organizzazzjoni oħra barranija li għandha bħala għanijiet tagħha xi wahda mill-affarijiet imsemmija fl-artikolu 23 ta' dan il-Kodiċi.

#### *Proċeduri ġenerali*

30. (1) Il-proċeduri dixxiplinari għandhom jiġu regolati skond l-artikolu 110 tal-Kostituzzjoni.

(2) Fejn xi setgħat ikunu ġew delegati skond l-artikolu 110 tal-Kostituzzjoni lill-Kummissarju biex jeżerċita azzjoni dixxiplinarja, il-Kummissarju għandu jsegwi l-proċeduri u għandu jkollu s-setgħat kif imsemmija fl-artikoli li ġejjin.

#### *Proċeduri quddiem il-Kummissarju*

31. (1) Il-Kummissarju għandu jahtar Uffiċjal Gazzettjat biex jiġbor il-provi u jirrakkomanda l-piena relattiva applikabbli għal każ, jekk ikun il-każ.

(2) Il-Kummissarju ma jistax personalment imexxi proċeduri fejn hu jkun xhud dirett tal-fatt allegat jew ikollu jixhed.

(3) Il-Kummissarju jew l-Uffiċjal Gazzettjat ikollu s-setgħa u l-awtorità li jisma' xiehda bil-gurament u mandat iffirmit minnu jkun ekwivalenti għal tahrika ta' xhieda mahruġa biex tobbliga l-attendenza ta' xhieda jew biex tobbligahom jipproduċu dokumenti jew hwejjeg oħra esibiti.

(4) Ebda persuna li tkun imharrka bhala xhud ma tkun obbligata li twieġeb għal mistoqsijiet jew li tipproduċi xi dokument jew haġa oħra biex tiġi esibita jekk biha tista' tinkrimina ruhha u kull persuna bħal din għandha, dwar kull xiehda mogħtija minnha fl-inkjesta, id-dritt għall-privileġġi kollha li għalihom xhud li jagħti xiehda quddiem il-Qorti tal-Maġistrati fi kwistjonijiet kriminali għandu d-dritt dwar ix-xiehda mogħtija minnu quddiem qorti bħal dik. Bl-istess mod, ix-xhud ikollu l-istess dmirijiet daqslikieku kien imharrek quddiem il-Qorti tal-Maġistrati.

(5) Kull persuna li, b'xiehda taħt gurament quddiem il-Kummissarju jew Uffiċjal Gazzettjat, tagħti xiehda falza, tkun hatja ta' reat kriminali u tehel, jekk tinstab hatja, priġunerija ta' mhux iżjed minn sentejn u għall-interdizzjoni generali.

#### *Prosekuzzjoni u difiża*

32. (1) F'dawk il-proċedimenti li huma msemmija fis-subartikolu (2) ta' l-artikolu 30 —

(a) uffiċjal ta' rank oghla minn dak ta' l-uffiċjal akkużat għandu jkun mqabbad biex jirrapprezenta n-naħa tal-prosekuzzjoni u biex iressaq il-provi li jsostnu l-akkuża;

(b) l-uffiċjal akkużat jista' jiddefendi hu lilu nnifsu jew permezz ta' l-assistenza ta' uffiċjal iehor tal-Pulizija ta' l-għażla tiegħu, jew rappreżentant ta' l-assoċjazzjoni tal-Pulizija, kif msemmi fit-Taqsima XII ta' dan il-Kodiċi, li tagħha jkun membru.

#### *Provi u regoli proċedurali*

33. (1) L-uffiċjal akkużat jista' jsejjah ix-xhieda tiegħu u jagħmel kontro-eżami tax-xhieda mressqa kontra tiegħu, taħt l-istess kundizzjonijiet li japplikaw għall-prosekuzzjoni, u għal dan l-iskop il-Kummissarju għandu johrog it-tahrika għal dawn ix-xhieda.

(2) Il-Kummissarju jew l-Uffiċjal Gazzettjat għandu jisma' s-sottomissjonijiet finali, kemm fuq il-mertu kif ukoll fuq il-piena li tista' tingħata, tal-prosekuzzjoni u tad-difiża qabel ma jagħti d-deċiżjoni tiegħu u l-piena, jekk ikun il-każ.

(3) Ir-regoli dwar xiehda li jkun applikabbli f'Qorti tal-ligi ghandhom japplikaw f'dawn il-procedimenti, u noti sommarji ghandhom jittiehdu mill-ufficjal li jippresjedi, iffirmati minnu u annessi mal-proċess tal-każ.

#### *Każijiet Delgati*

34. L-Ufficjal Gazzettjat mahtur skond l-artikolu 31 (1) ghandu dejjem jissottometti lill-Kummissarju l-proċess relattiv flimkien ma' l-opinjoni tieghu fuq il-merti tal-każ u l-piena, jekk il-każ, rakkomandati minnu u l-Kummissarju jista' jaċċetta r-rakkomandazzjoni jew jirrifirmaha billi jew iwaqqa' l-każ u jillibera lill-ufficjal akkużat jew billi jnaqqas il-piena, jekk ikun il-każ.

#### *Regoli ghal investigazzjonijiet*

35. (1) Il-Kummissarju jista' jagħmel regoli li jippreskrivu l-proċeduri li ghandhom jitharsu fis-smigh preliminari dwar allegazzjoni ta' reat kontra d-dixxiplina.

(2) Dawn ir-regoli jistghu jipprovdu dwar miżuri dixxiplinari immedjati li jistghu jittiehdu minn ufficjali superjuri jew minn ufficjal tal-Pulizija f'każijiet li dwarhom ma jistax ikun hemm dewmien.

#### *Indipendenza ta' l-azzjonijiet*

36. Kull procedimenti dixxiplinari mehuda kontra membru tal-Korp jkunu bla hsara ghal kull procedimenti li jistghu jittiehdu kontra tieghu skond id-dispożizzjonijiet tal-Kodiċi Kriminali jew ta' kull ligi ohra u kull procedimenti mehuda skond kull wahda minn dawk il-ligijiet ikunu bla hsara ghal kull procedimenti dixxiplinari bhal dawk għall-istess fatt.

#### *Pieni*

37. Il-pieni li jistghu jiġu mogħtija fi procedimenti quddiem il-Kummissarju huma dawn -

- (i) multa ta' mhux aktar minn sebat ijiem paga;
- (ii) twaqqif tal-ġranet ta' mistrieħ ta' kull ġimgħa, għal mhux aktar minn sebat ijiem;
- (iii) trasferiment minflok piena;
- (iv) ċanfira qawwija;
- (v) ċanfira;
- (vi) twissija.

*Pieni Esklużi*

38. (1) Il-piena ta':

(i) tkeċċija; jew

(ii) talba għal riżenja sew minnufih jew sew f'dik id-data li tista' tiġi speċifikata fid-deċiżjoni, bħala alternattiva għal tkeċċija; jew

(iii) tnaqqis fir-rank jew anzjanità; jew

(iv) differiment ta' inkrement jew tnaqqis fir-rata ta' paga tal-hati;

jistghu jkunu biss rakkomandati mill-Kummissjoni dwar is-Servizz Pubbliku skond l-artikolu 110 tal-Kostituzzjoni.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma jwaqqfux lill-Kummissjoni dwar is-Servizz Pubbliku milli tagħti wahda mill-pieni msemmija fl-artikolu 37.

*Hlas ta' Multi*

39. Kull multa li tinghata għar-reati kontra d-dixxiplina għandha tingabar mill-paga dovuta lill-uffiċjal hati:

Iżda l-Kummissarju jista', wara li jikkunsidra n-numru ta' dipendenti ta' l-uffiċjal, u fatturi simili oħra, jferexx il-hlas fuq numru ta' hlasijiet ta' kull xahar li ma jaqbzux l-ekwivalenti ta' paga ta' gurnata tal-hati jew jista' jagħtih l-għażla li jikkumpensa billi jahdem bla hlas sigħat żejda ta' xogħol.

*Hsara f'tagħmir jew telf tiegħu*

40. Jekk uffiċjal tal-Pulizija jirhan, ibiegh, jitlef bi traskuraġni, inehhi, jew volontarjament jew bi traskuraġni jagħmel hsara lil xi arma, munizzjon, *accoutrement*, uniformi jew haġa oħra mogħtija lilu, jew xi proprjetà mħollija taht il-kura tiegħu, huwa jista', b'żieda għal jew minflok kull piena oħra, jiġi ordnat li jagħmel tajjeb għal, sew in parti jew għal kollox, il-valur ta' dik il-proprjetà jew l-ammont ta' dak it-telf jew hsara, skond il-każ, u dak il-valur jew dak l-ammont jista' jingabar billi jitnaqqas mill-paga tiegħu.

*Preskrizzjoni tal-proċedimenti nterni*

41. Proċedimenti dixxiplinari quddiem il-Kummissarju ma jistghux jinbdeu wara li jghaddu tlett xhur mid-data li fiha jsehħ ir-reat.

*Thassir minn "records" personali*

42. Reat kontra d-dixxiplina ittrattat mill-Kummissarju ma jibqax jidher fuq ir-records personali tal-uffiċjal wara li jghaddu sentejn, jekk ma jkunx ġie misjub hati ta' xi reat iehor matul dan iż-żmien.

## TAQSIMA V

## DMIRIJET TAL-PULIZIJA

*Supremazija tal-liġi*

43. (1) Huwa d-dmir tal-Korp li josserva u jirrispetta, fl-eżekuzzjoni tad-dmirijiet tiegħu, id-drittijiet umani inaljenabbli tal-individwu, u li jipproteġi l-istess drittijiet.

(2) Huwa d-dmir tal-Kummissarju tal-Pulizija li jgħarraf lill-uffiċjali kollha tal-Korp b'kull informazzjoni jew deċiżjoni ġudizzjarja rilevanti għall-operat tal-Korp.

*Ordni Pubbliku*

44. Huwa d-dmir tal-Korp li -

(a) jzomm l-ordni u l-paċi pubblika, u għal dan l-iskop jista' jiehu azzjonijiet preventivi li jkunu kompatibbli mad-drittijiet tal-individwu;

(b) b'mezzi ta' medjazzjoni amikevoli, iwassal għal soluzzjoni imparzjali, kwistjonijiet żgħar bejn individwi, liema kwistjonijiet jistgħu, jekk ma jkunux solvuti, iwasslu biex isiru reati.

*Ambjent*

45. Hu d-dmir tal-Korp li jħares l-ambjent, kemm animat kif ukoll inanimat, fejn dan ikun f'periklu imminenti u jekk ma tittehidx azzjoni preventiva, jistgħu jsiru danni irriparabbli, anki f'każ li r-responsabbiltà legittima għal investigazzjoni jew prosekuzzjoni hi ta' xi fergħa oħra ta' l-amministrazzjoni.

*Prevenzjoni ta' Reati*

46. (1) Il-Korp hu fid-dmir li ma jhallix li jsiru reati.

(2) Minkejja l-generalità tas-subartikolu (1), meta awtorizzata mill-liġi u bil-mod provdut, il-Pulizija tista' tittardja l-intervent immedjat tagħha biex ma thallix li jsiru reati.

*Ordnijiet Legittimi*

47. Meta xi uffiċjal tal-Pulizija, fl-eżekuzzjoni tad-dmirijiet hawn fuq msemmija jagħti xi ordni, li kien raġunevolment mehtieg fiċ-ċirkustanzi tal-każ, l-istess ordni għandu jitqies bħala ordni legittimu, sakemm ma jintweriex il-kuntrarju.

*Kxif ta' Reati*

48. (1) Huwa d-dmir tal-Korp li jikxef u jinvestiga reati.

(2) Huwa d-dmir tal-Pulizija li tigbor u tikkonserva kull prova, kemm kontra kif ukoll favur il-persuna suspettata li ghamlet dak ir-reat.

*Tniżżil bil-miktub*

49. Kull uffiċjal tal-Pulizija huwa marbut li jniżżel bil-miktub, malajr kemm jista' jkun, kull osservazzjoni ta' fatt, li jista' aktar tard jissejjah biex jixhed fuqu.

*Prosekuzzjoni ta' reati*

50. (1) Huwa d-dmir tal-Korp li jgib il-hatjin quddiem l-awtoritajiet ġudizzjarji, sakemm il-liġi ma tghidx mod iehor.

(2) Huwa d-dmir ta' l-uffiċjal tal-Pulizija li jkun qed imexxi l-prosekuzzjoni li f'kull każ igib quddiem il-qorti l-provi kollha li ghandu kemm favur kif ukoll kontra l-persuna akkużata.

*Diskriminazzjoni fil-prosekuzzjoni*

51. (1) Ikun hemm ksur ta' dmir jekk ma jingabx quddiem il-qrati, kull hati iehor li jkun ghamel att jew ommissjoni simili, fl-istess ċirkustanzi, kemm-il darba ma jkunx hemm raġunijiet għal dan it-trattament differenti, u l-qrati *ex officio* ghandhom jordnaw li jinbdew proċedimenti, meta ma jeżistux raġunijiet xierqa għal dan it-trattament differenti.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu jkunu bla hsara għad-dispożizzjonijiet ta' l-artikolu 541 tal-Kodiċi Kriminali (Kap 9).

*Prosekuzzjonijiet fuq kwerela*

52. Il-Pulizija ma tistax tibda proċedimenti kriminali, hliet fuq il-kwerela tal-parti offiża, fil-każijiet li fihom il-liġi ma thallix li jsiru proċedimenti kriminali jekk ma jkunx hemm dik il-kwerela:

Iżda kull uffiċjal tal-Pulizija li jirċievi xi rapport dwar reat minn dawn ghandu jniżżel bil-miktub l-istess rapport flimkien ma' nota li jkun għarraf lill-persuna li ghamlet dak ir-rapport bil-fomm, li ghandha taghmel il-kwerela bil-miktub skond il-formalitajiet mehtieġa mill-liġi.

*Raġunijiet verbali għal prosekuzzjonijiet*

53. Minbarra fil-każ ta' kontravvenzjonijiet jew reati ohra punibbli b'dik il-piena pekunjarja, uffiċjal tal-Pulizija ghandu jhejji u jiffirma rapport li jaghti r-raġunijiet fuq liema bażi u fuq liema provi hu ddeċieda li jressaq lil min jaghmel reat quddiem l-awtoritajiet ġudizzjarji. Bl-istess mod, huwa ghandu jiddikjara espressament ir-raġunijiet tiegħu li wasslu għad-deċiżjoni li ma jiehux passi kontra xi persuna suspettata b'reat. Dawn ir-rapporti ma jkunux aċċessibli għall-pubbliku, kemm-il darba ma jkunx hemm ordni tal-qorti li tghid mod iehor.

## TAQSIMA VI

## SETGHAT U LIMITAZZJONIJIET

*Setghat skond il-liġi*

54. Kull setgha li ghandu ufficjal tal-Pulizija tohrog mil-liġi, u fil-limiti awtorizzati mil-liġi u l-kelma liġi ghandha l-istess tifsira moghtija lilha fl-artikolu 124 tal-Kostituzzjoni.

**Titolu 1 – SETGHA FUQ AFFARIJIET****Sub-titolu I – Setgha ta' Twaqqif u Perkwizzjoni***Setgha*

55. (1) Ufficjal tal-Pulizija jista', f'post pubbliku jew f'post aċċessibli ghal pubbliku, anki bi hlas, jipperkwizzixxi kull persuna jew vettura, jekk ikollu suspett raġunevoli li l-perkwizzjoni tista' tikkax il-pussess ta' affarijiet li huma pprojbiti, misruqa jew akkwistati permezz ta' reat ikun liema jkun, jew li jistghu jiġu wżati biex isir xi reat.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, il-Pulizija tista' twaqqaf persuna jew vettura sakemm issir il-perkwizzjoni, u jekk ikunu misjuba affarijiet ipprojbiti jew konnessi ma' xi reat, allura dawn l-affarijiet ghandhom jinqabdu.

*Mandati*

56. Meta l-perkwizzjoni tkun se ssir fuq vettura li ma hemm hadd magħha u ma jkunx possibbli li jinġieb is-sid registrat tagħha, ufficjal tal-Pulizija jista' biss jagħmel il-perkwizzjoni jekk ikollu mandat ta' ufficjal superjuri ta' rank mhux inqas minn dak ta' spettur.

*Limitazzjonijiet tal-perkwizzjoni, eċċ.*

57. Xejn f'dan l-artikolu ma jawtorizza l-perkwizzjoni ta' persuna minn ufficjal tal-Pulizija tas-sess oppost, jew li l-persuna perkwizita tkun mġieghla tinża' fil-pubbliku, jew li l-perkwizzjoni tkun magħmula minn ufficjal tal-Pulizija li ma jkunx liebes l-uniformi jekk ma jkunx identifikat b'mod ċar bil-wiri ta' karta ta' l-identità tal-pulizija.

*Proċess verbal tal-perkwizzjoni*

58. Il-Pulizija li jagħmlu din il-perkwizzjoni għandhom ihejju proċess verbal li jkun iffirmit minnhom, li jagħti d-dettalji kollha tal-perkwizzjoni, u raġunijiet li wasslu biex din issir.

*Qbid*

59. Meta jinqabad xi oġġett, dan għandu jkun konservat u għandu wkoll jiġi ndikat fil-proċess verbal, liema proċess verbal għandu dejjem jiġi mibgħut lill-Maġistrat Inkwirenti.

## **Sub-titolu II - Kontrolli fit-Toroq**

*Kundizzjonijiet għal kontrolli fit-toroq*

60. Il-Pulizija tista' tagħmel kontroll fit-toroq meta jkun hemm raġunijiet xierqa biex temmen li l-kontroll ta' vetturi ġewwa jew li jgħaddu minn xi lokalità jista' jwassal għal —

(a) l-arrest ta' persuna li tkun għamlet, jew li hemm suspett raġunevoli li għamlet jew li se tagħmel reat serju, minbarra delitt punibbli taht l-Att dwar l-Istampa; jew

(b) il-kxif ta' oġġetti li l-pussess tagħhom hu projbit jew limitat mill-igi jew li għandhom konnessjoni b'xi mod jew iehor ma' l-għemil ta' reat serju jew li huma prova ta' dan ir-reat; jew

(c) l-arrest ta' persuna li l-arrest tagħha ġie ordnat minn qorti jew minn xi awtorità legittima ohra jew li hi b'xi mod iehor illegalment libera; jew

(d) l-aċċertament li persuna m'hix qieghda thares xi kundizzjoni legittimament imposta fuqha minn xi qorti; jew

(e) l-aċċertament ta' vjolazzjonijiet ta' xi ligi dwar vetturi bil-mutur jew regolamenti tat-traffiku.

Izda għall-finijiet ta' dan l-artikolu, "reat serju" tfisser kull reat li għalih hemm il-piena ta' prigunerija.

*Eżerċizzju ta' kontroll fit-toroq*

61. (1) Waqt il-kontroll fit-toroq il-Pulizija tista' twaqqaf kull jew xi vetturi għaddejnin minn jew ġewwa l-lokalità fejn ikun qed isir il-kontroll fit-toroq.

(2) Fejn xi vettura kienet imwaqqfa fl-eżerċizzju tas-setgħat mogħtija taht dan l-artikolu dik il-vettura tista' tiġi perkwiżita mill-Pulizija.

*Awtorizzazzjoni*

62. Kontroll fit-toroq skond dan is-sub-titolu jista' jiġi organizzat biss jekk ikun hemm l-awtorizzazzjoni bil-miktub ta' uffiċjal tal-Pulizija fir-rank ta' Spettur

jew rank oghla iżda f'każijiet li dwarha ma jistax ikun hemm dewmien din l-awtorizzazzjoni tista' tinghata wkoll bil-fomm u tkun imniżżla bil-miktub mill-aktar fis possibbli.

#### *Provi ta' reati oħra*

63. B'dak kollu li hemm miktub fl artikoli ta' qabel fejn, waqt kontroll fit-toroq, jinstabu provi li sar reat iehor barra r-reat li b'referenza ghalih sar il-kontroll fit-toroq, il-Pulizija jkollhom id-dritt jinvestigaw dan ir-reat u fejn xieraq jibdew proċedimenti dwar dak ir-reat.

#### *Protezzjoni ta' liġijiet oħra*

64. Xejn f'dan is-sub-titolu ma jaffettwa s-setgħa li għandhom il-Pulizija li jwaqqfu vetturi għall-finijiet oħra barra dawk imsemmija fl-artikolu 60 ta' dan il-Kodiċi meta awtorizzati taht xi liġi oħra.

### **Sub-Titolu III – Setgħat ta' Dhul, Perkwizzjoni u Qbid b'Mandat**

#### *Kundizzjonijiet għal perkwiżizzjoni*

65. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu l-Pulizija tista' tidhol f'kull lokal, dar, bini jew reċint biex tiġi arrestata hemm ġew xi persuna li tkun għamlet delitt li għalih hemm il-piena ta' prigunerija, minbarra delitti punibbli taht l-Att ta' l-1974 dwar l-Istampa, jew li jkun hemm suspett raġonevoli li tkun għamlet jew li tkun se tagħmel xi delitt bhal dak.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu l-Pulizija tista' wkoll tidhol f'xi wiehed mill-postijiet msemmija fis-subartikolu (1) ta' dak l-artikolu biex tagħmel perkwiżizzjoni għal xi oġġetti projbiti jew ristretti jew għal xi materjal li jista' jkun konness b'xi mod jew iehor ma' l-għemil ta' reat kriminali jew li jista' jagħmel prova ta' l-istess reat.

(3) Bla hsara għad-dispożizzjonijiet ta' l-artikolu 70 ta' dan il-Kodiċi, kull dhul mill-Pulizija skond id-dispożizzjonijiet tas-subartikoli (1) u (2) ta' dan l-artikolu jista' jsir biss jekk jinhareġ mandat għall-dak l-iskop mill-Maġistrat Inkwirenti meta jkun huma suspett raġonevoli li l-persuna li għandha tiġi arrestata jew l-oġġetti, materjal jew provi li għandhom ikunu mfittxija qegħdin f'dak il-lokal partikolari, u

(a) ma hux prattikabbli li tiġi avżata l-persuna li tista' ddaħhalhom fil-lokal jew tagħtihom aċċess għall-oġġetti, materjal jew provi; jew

(b) id-dhul ikun irrifjutat jekk ma jintweriex mandat; jew

(ċ) l-iskop tad-dhul u perkwiżizzjoni jista' jiġi mfixkel jew serjament preġudikat, jekk il-Pulizija ma tiżgurax dhul immedjat.

*Limiti ta' mandat ta' perkwiżizzjoni*

66. (1) Kull mandat mahruġ skond dan l-artikolu u kull perkwiżizzjoni jew qbid magħmul skond d-dispożizzjonijiet ta' dan l-artikolu ma jkunx applikabbli għal privileġġ legali jew għal xi materjal eskluż.

(2) Mandat ta' dhul u perkwiżizzjoni jkun applikabbli għall-persuna li tkun talbitu u għall-dawk l-uffiċjali l-oħra li jkunu miegħu.

(3) Kull mandat ta' dhul u perkwiżizzjoni ma jistax jiġi eżegwit wara li jgħaddi xahar mid-data tal-hruġ.

*Hinijiet għal eżekuzzjoni*

67. Mandat ta' dhul u perkwiżizzjoni għandu jkun eżegwit f'hinijiet raġunevoli tal-gurnata sakemm il-Maġistrat Inkwirenti ma jkunx awtorizza mod ieħor fil-mandat jew sakemm l-uffiċjal tal-Pulizija li jkun qed jeżegwih ma jkollux raġuni xierqa li jemmen li l-iskop tad-dhul u perkwiżizzjoni jiġi frustrat jekk l-eżekuzzjoni tal-mandat ma ssirx fil-pront.

*Kopja tal-mandat lil persuna*

68. L-uffiċjal li jkun qed jeżegwixxi l-mandat għandu jagħti kopja tal-mandat lill-persuna li tkun toqghod u tkun preżenti fil-post perkwiżit jew lil xi persuna oħra li titqies mill-istess uffiċjal li hi nkarigata mill-post u li tkun preżenti waqt il-perkwiżizzjoni. F'kull każ ieħor fejn l-ebda persuna ma tkun inkarigata mill-post, taht ebda titolu ma tkun preżenti, il-kopja tal-mandat għandha tithalla fil-post perkwiżit b'tali mod li dik il-kopja tkun faċilment tidher.

*Limitazzjonijiet*

69. Kull perkwiżizzjoni li ssir b'mandat għandha tkun perkwiżizzjoni limitata għal dak li hu mehtieġ għall-finijiet li għalihom nhareġ il-mandat:

Iżda jekk xi reati barra dak jew dawk msemmija fil-mandat jkunu mikxufa waqt il-perkwiżizzjoni, il-perkwiżizzjoni tista' testendi kif mehtieġ għall-finijiet ta' dawn r-reati l-oħra.

**Sub-Titolu IV – Setgħa ta' Dhul u Perkwiżizzjoni mingħajr Mandat**

*Perkwiżizzjonijiet urġenti*

70. Kull uffiċjal tal-Pulizija jista' jidhol f'xi post skond is-subartikoli (1) u (2) ta' l-artikolu 65 mingħajr mandat tal-Maġistrat Inkwirenti jekk ikollu suspett raġunevoli li l-persuna li trid tiġi arrestata jew l-oġġetti, materjal jew provi li dwarhom għandha ssir l-perkwiżizzjoni jinstabu f'dak il-post u hemm raġuni valida li jitwemmen li:

(a) hemm perikolu imminenti li dik il-persuna tista' taħrab jew li *l-corpus delicti* jew il-mezzi ta' prova tar-reat jiġu soppressi; jew

(b) il-persuna tinqabad fil-fatt ta' delitt mhux ekkluz taħt id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 65; jew

(c) l-intervent tal-Pulizija ikun meħtieġ biex jiġi mwaqqaf milli jsir delitt mhux ekkluz taħt id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 65; jew

(d) id-dhul ikun meħtieġ għall-eżekuzzjoni ta' xi mandat jew ordni ieħor maħruġ minn xi awtorita kompetenti oħra fil-każijiet preskritti mil-liġi; jew

(e) biex terġa' tinqabad persuna li xort'ohra tkun illegalment libera.

### *Dhul u perkwiżizzjoni wara arrest*

71. (1) Il-Pulizija għandha s-setgħa li tidhol u tipperkwizixxi kull lokal okkupat jew kontrollat, ukoll temporanjament, minn persuna li tinsab arrestata, jekk ikollha raġunijiet xierqa li tissuspetta li hemm provi, minbarra oġġetti li jaqgħu taħt il-privileġġ legali, li għandhom x'jaqsmu mar-reat jew ma reat li għandu x'jaqsam miegħu, u dik il-perkwizizzjoni għandha tkun limitata għal dak li hu raġunevolment meħtieġ biex jinstabu dawk il-provi:

Iżda jekk reati oħra minbarra dak jew dawk li oriġinarjament wasslu għall-arrest ikunu mikxufa waqt il-perkwizizzjoni, din il-perkwizizzjoni tista' testendi kif meħtieġ għall-finijiet ta' dawn ir-reati l-oħra.

(2) Il-Pulizija tista' taqbad u żżomm kull oġġett misjub li jagħmel prova relevanti skond is-subartikolu (1) ta' dan l-artikolu u bla ħsara għad-dispożizzjonijiet tas-Sub-titolu V.

### *Limitazzjonijiet*

72. (1) Is-setgħat imsemmija fl-artikolu 71 ta' dan il-Kodiċi jistgħu jiġu eżerċitati minn uffiċjal tal-Pulizija ta' rank mhux anqas minn dak ta' spettur, jew minn uffiċjal ta' rank anqas jekk ikun awtorizzat bil-miktub li jagħmel hekk minn uffiċjal ta' rank mhux anqas minn dak ta' spettur.

(2) F'każ li dwaru ma jistax ikun hemm dewmien u l-persuna li tokkupa jew tikkontrolla l-post tkun preżenti u l-preżenza tagħha hi meħtieġa għall-investigazzjoni effettiva tar-reat, l-uffiċjal tal-Pulizija jista' jgħaddi għal dak id-dhul u perkwiżizzjoni, mingħajr l-awtorizzazzjoni bil-miktub imsemmija fis-subartikolu (1) ta' dan l-artikolu.

*Process verbal ta' l-uffiċjali*

73. (1) Kull uffiċjal tal-Pulizija li jeżerċita s-setgħa msemija fl-artikoli 70 u 71 għandu, mill-aktar fis li jista', ihejji process verbal dwar id-dhul u perkwiżizzjoni mingħajr mandat, u jagħti r-raġunijiet għalfejn sar dan l-eżerċizzju, u jiddeskrivi r-riżultati tal-perkwiżizzjoni.

*Tifsir ta' reat li għandu x'jaqsam ma' reat ieħor*

74. Għall-finijiet ta' dan is-Sub-titolu reat jitqies li għandu x'jaqsam ma' reat ieħor fl-istess ċirkustanzi li jkun hemm reati x'jaqsmu ma' xulxin kif provdut fis-subartikolu 1(A) ta' l-artikolu 413 tal-Kodiċi Kriminali.

**Sub-titolu V – Qbid u Żamma***Regoli ġenerali dwar qbid*

75. (1) Il-Pulizija, meta tkun legittimament ġewwa xi lokal, tista' taqbad kull haġa li tkun f'dak il-lokal jekk ikollha raġunijiet xierqa li temmen li għet akkwistata bhala konsegwenza ta' l-għemil ta' reat jew li hi prova relattiva għal xi reat u li l-qbid tagħha hu meħtieġ biex jiġi evitat li dik il-haġa tkun moħbija, mitlufa, danneġġata, mbiddla jew distrutta.

(2) Il-Pulizija tista' teżerċita s-setgħa ta' qbid ta' oġġett jekk dan jagħmel prova relevanti għall-investigazzjoni.

*"Records" fuq kompjuters*

76. Il-Pulizija tista', flimkien mas-setgħa li taqbad makkinarju ta' kompjuter, tordna li xi informazzjoni li tinsab ġewwa kompjuter tiġi mogħtija lilha f'forma li tista' tingarr u li hi viżibbli u legġibbli.

*Riċevuta għall-oġġetti maqbuda*

77. Il-Pulizija għandha dejjem toħroġ riċevuta għal kull oġġett maqbud mill-persuna fil-lokal jew li għandha l-kontroll tal-oġġett maqbud u, fuq talba tal-istess persuna, il-Pulizija għandha fi żmien raġunevoli tagħtih ritratti jew kopji tal-oġġett maqbud, sakemm l-uffiċjal li jkun qed imexxi l-investigazzjoni ma jkollux raġunijiet xierqa biex jemmen li dan ikun ta' preġudizzju għall-investigazzjoni jew għal xi proċedimenti kriminali li jistghu jinbdew bhala riżultat tagħha.

*Żamma*

78. (1) Kull haġa li tiġi maqbuda mill-Pulizija skond l-artikoli ta' qabel dan tista' tinzamm sakemm ikun meħtieġ fiċ-ċirkustanzi kollha.

(2) Minghajr preġudizzju għall-ġeneralità ta' dak li ntqal hawn fuq, kull haġa legittimament maqbuda skond dan il-Kodiċi tista' tinzamm biex tintuża bhala prova fil-proċess jew għal eżamijiet forensiċi jew f'kull aspett iehor tal-investigazzjoni, jew sabiex jiġi stabbilit is-sid legittimu tagħha.

(3) Il-Kummissarju għandu jipprovdi għall-kustodja xierqa ta' kull oġġett maqbud.

#### *Għoti lura lis-sid*

79. Kull persuna, li tkun is-sid legittimu ta' oġġett maqbud u miżmum, tista' tagħmel rikors quddiem il-Maġistrat Inkwirenti biex jingħatalha lura, u l-Maġistrat Inkwirenti jista' b'digriet jordna r-rilaxx minghajr ebda kundizzjoni jew ukoll taht dawk il-kundizzjonijiet li jkunu mehtieġa biex jiġi konservat il-valur probatorju ta' dak l-oġġett.

#### *Ritratti*

80. Xejn ma għandu jinżamm jekk ritratt jew kopja tiegħu tkun biżżejjed.

## **Titolu II - SETGHAT TA'ARREST U DETENZJONI**

### **Sub-titolu I – Arresti**

#### *Arrest minn persuni privati*

81. (1) Kull persuna tista' tarresta minghajr mandat lil xi hadd li jkun fil-fatt qiegħed jagħmel jew għadu kemm għamel delitt u din il-persuna għandha minnufih tavża lill-Pulizija b'dak l-arrest.

(2) Id-delitti li għalihom jirreferi s-subartikolu (1) ta' dan l-artikolu huma dawk 'in flagrante' u li jikkonċernaw il-paċi u l-unur tal-familji u l-morali, delitti volontarji kontra l-persuna li jinvolvu offiża kontra l-persuna, serq u dhul volontarju illegali jew hsara lil proprjetà.

(3) Is-setgħa msemmija fis-subartikolu (1) ta' dan l-artikolu għandha tiġi eżerċitata biss sakemm ikun strettament mehtieġ għall-Pulizija sabiex tiehu f'idejha l-persuna arrestata.

#### *Arrest mill-Pulizija mingħajr mandat*

82. (1) Kull uffiċjal tal-Pulizija jista' jarresta minghajr mandat lil xi hadd li jkun fil-fatt qed jagħmel jew għadu kemm għamel delitt punnibbli bi prigunerija jew li jkun hemm suspett raġunevoli li se jagħmel jew għadu kemm għamel l-istess delitt.

(2) Kull uffiċjal tal-Pulizija jista' wkoll jghaddi biex jarresta lil xi persuna li xjentement, jsir wara twissija xierqa, bla ostakolu jew itellfu fil-qadi ta' dmirijietu, jew li ma tobdux l-ordnijiet legittimi tiegħu.

(3) Is-setgħat imsemmija fis-subartikolu (1) u (2) ta' dan l-artikolu jistgħu jkunu eżerċitati biss sakemm ikun strettament mehtieġ biex l-uffiċjal tal-Pulizija jiehu l-persuna arrestata fl-eqreb għassa tal-Pulizija u jikkonsenjaha lill-uffiċjal superjuri mhux anqas mill-grad ta' surġent.

#### *Arrest għal reati zgħar*

83. F'kaz ta' kontravvenzjonijiet, jew delitti mhux suġġetti għal piena ta' prigunerija, minbarra dejjem id-delitti punibbli taht l-Att dwar l-Istampa, il-Pulizija għandha dritt li tghaddi għall-arrest ta' persuna, kemm-il darba —

(a) il-persuna tinqabad fil-fatt tagħmel ir-reat; jew

(b) l-arrest ikun mehtieġ biex iwaqqaf reat li għalih il-Pulizija tista' tmexxi proċedimenti kriminali mingħajr il-kwerela tal-parti offiża; u

(ċ) fiż-żewġ każijiet imsemmija fil-paragrafu (a) jew (b) hawn fuq, xi waħda mill-kundizzjonijiet imsemmija fl-artikolu 84 trid tkun teżisti ukoll.

#### *Kundizzjonijiet generali għall-arrest*

84. Il-kundizzjonijiet generali għall-arrest huma li —

(a) l-identità tal-persuna ma tkunx magħrufa jew ma tistax tiġi aċċertata malajr mill-uffiċjal tal-Pulizija; jew

(b) ikun hemm dubju dwar jekk id-dettalji mogħtija mill-persuna humiex veri; jew

(ċ) il-persuna ma tghatx indirizz sodisfaċenti għan-notifika jew ikun hemm dubji dwar jekk l-indirizz mogħti huwiex sodisfaċenti għan-notifika, jew għall-inqas ikun hemm xi persuna oħra li tista' skond il-liġi tiġi notifikata għan-nom tiegħu fl-indirizz mogħti; jew

(d) l-arrest hu mehtieġ biex iwaqqaf lill-persuna milli —

(i) tikkaguna hsara fiżika lilha nnifisha jew lil xi persuna oħra; jew

- (ii) issofri hsara fuq il-persuna taghha; jew
- (iii) tikkaguna telf jew hsara ta' proprjeta'; jew
- (iv) taghmel reat kontra l-morali pubblika; jew
- (v) tikkawza ingombri illegittimu f' xi triq pubblika; jew

(e) l-ufficjal tal-Pulizija jkollu ragunijiet xierqa li jemmen li l-arrest hu mehtieg biex ihares minuri jew xi persuna ohra vulnerabbli.

(3) Id-dispozizzjonijiet ta' dan l-artikolu jkunu bla hsara ghal xi setgha ta' arrest moghtija b'dispozizzjoni ohra tal-ligi.

#### *Taghrif li jinghata ma' l-arrest*

85. (1) Meta persuna tigi arrestata, l-arrest mhuwiex legittimu kemm-il darba l-persuna arrestata ma tkunx mgharrfa li qieghda taht arrest, anki jekk l-arrest ikun evidenti.

(2) L-arrest ma huwiex legittimu kemm-il darba l-persuna arrestata ma tkunx mgharrfa bir-raguni tal-arrest fil-waqt ta' l-arrest jew mill-aktar fis wara.

(3) Xejn f'dan l-artikolu ma jirrendi arrest mhux legittimu jekk il-persuna arrestata tahrab mill-kustodja tal-Pulizija qabel tkun mgharrfa kif intqal fis-subartikoli ta' qabel dan l-artikolu.

#### *Attenzenza f'ghassa jew ufficju tal-Pulizija*

86. (1) Meta, waqt investigazzjoni, persuna tmur minn jeddha l-ghassa jew ufficju tal-Pulizija, jew tmur hemmhekk ma' ufficjal tal-Pulizija, hi jkollha d-dritt li titlaq meta trid, kemm-il darba u sakemm ma tkunx mgharrfa li qieghda taht arrest.

(2) Meta, spettur tal-Pulizija jkollu suspett ragunevoli li l-persuna li marret minn jeddha l-ghassa jew ufficju tal-Pulizija tkun ghamlet reat suggett ghall-prigunerija, jista' jiddeciedi li jarresta lil dik il-persuna minnufih, u jgharrafha b'dan, u l-hin ta' l-arrest ghandu jkun registrat immedjatament. Avviz immedjat ta' dan l-arrest ghandu jinghata lill-Magistrat Inkwirenti.

(3) Persuna titqies li marret minn jeddha jekk tkun notifikata b'avviz bil-miktub jew mgharrfa bil-fomm li l-Pulizija ghandha bzonn tiehu xi taghrif relevanti jew dokumenti minghandha u taghzel li tmur. L-avviz ghandu jkun fih twissija dwar il-konsegwenzi tan-nuqqas li tobdi, kif imsemmi fis-subartikolu (5) ta' dan l-artikolu.

(4) Kull persuna, li tkun meqjusa mill-Pulizija bhala li ghandha fil-pussess taghha xi taghrif jew dokument relevanti ghal xi investigazzjoni, ghandha obbligu legali li timxi mat-talba tal-Pulizija biex tmur kif mitluba u taghti kif mehtieg dik l-informazzjoni jew dak id-dokument:

Izda l-ebda persuna ma hija obbligata li taghti xi taghrif jew dokument li jista' jinkriminaha.

(5) Meta fiċ-ċirkustanzi msemmija fis-subartikolu (3) ta' dan l-artikolu, persuna debitament notifikata b'avviż bil-miktub tonqos li tmur l-ghassa tal-Pulizija jew post iehor indikat f'dak l-avviż, jew tirrifjuta li tmur minn jeddha ma' ufficjal tal-Pulizija hemmhekk, anki jekk l-avviż inghata bil-fomm, f'dan il-każ il-persuna tkun hatja ta' reat punibbli b'detenzjoni u tkun tista' tiġi arrestata minnufih taht mandat.

(6) Il-mandat ta' l-arrest imsemmi fis-subartikolu (6) jinhareġ minn Maġistrat Inkwirenti.

(7) L-avviż imsemmi fis-subartikolu (3) hawn fuq jista' jiġi notifikat b'urgenza fil-każijiet fejn ikun mehtieg li jsir hekk fl-interess tal-ġustizzja.

(8) Persuna li tmur minn jeddha kif imsemmi fis-subartikolu (3) tista' tinżamm separata minn xi persuna ohra, imma ma tistax tinżamm f'xi post fejn jinżammu normalment persuni arrestati.

#### *Arrest barra għasses jew ufficċji tal-Pulizija*

87. (1) Meta persuna tiġi arrestata kif imsemmi fl-artikolu ta' qabel dan, din ghandha tittiehed fl-eqreb għassa tal-Pulizija u jekk l-ufficjal li għamel l-arrest hu ufficjal ta' grad anqas għola minn dak ta' spettur, dan għandu jirraporta minnufih l-arrest lil ufficjal ta' grad mhux anqas minn dak ta' spettur. F'kull każ l-ispettur nkarigat minn dik l-ghassa tal-Pulizija għandu jkun dejjem mgharraf.

(2) L-ufficjal tal-Pulizija għandu jiehu lill-persuna arrestata lejn l-ghassa tal-Pulizija magħzula għal hekk mill-aktar fis possibbli u fl-ebda każ aktar tard minn sitt sigħat mill-hin ta' l-arrest.

(3) Jekk ir-raġunijiet għall-arrest ma jibqgħux jeżistu, l-ufficjal tal-Pulizija għandu d-dmir li jehles lill-persuna arrestata, ukoll jekk qabel ma jkun hadha lejn l-ghassa tal-pulizija magħzula għal hekk.

(4) Meta persuna tinheles skond is-subartikolu (3) ta' dan l-artikolu, l-ufficjal tal-Pulizija għandu jhejji proċess verbal fejn jagħti ċ-ċirkustanzi li fuqhom issodisfa ruhu li l-arrest m'għandux ikompli.

(5) Xejn fis-sub-artikoli ta' qabel m'ghandu jimpedixxi ufficjal tal-Pulizija milli jdum ma jiehu persuna li giet arrestata lejn ghasa tal-pulizija jekk il-prezenza ta' dik il-persuna x'imkien ieħor hi meħtieġa biex isiru dawk l-investigazzjonijiet li raġunevolment ghandhom isiru immedjatament.

#### *Arrest għal reat ieħor*

88. Meta persuna tkun taħt arrest u kienet tiġi meħlusa mill-kustodja kieku mhux għal fatt li hi raġunevolment suspettata li għamlet xi reat ieħor minbarra dak li għalih giet arrestata, għandha tkun arrestata għal dak ir-reat l-ieħor iżda l-persuna arrestata għandha tiġi meħlusa fi żmien tmienja u erbghin siegħa mill-hin ta' l-ewwel arrest kemm-il darba f'dan iż-żmien ma tingibx quddiem qorti.

#### *Perkwizzzjoni fuq persuna arrestata*

89. (1) Ufficjal tal-Pulizija jista' jipperkwizzixxi fil-pront lill-persuna arrestata:

(a) jekk l-ufficjal tal-Pulizija għandu raġunijiet xierqa biex jemmen li l-persuna arrestata tista' tkun ta' periklu għaliha nnifisha jew għal oħrajn; jew

(b) għal kull haġa li l-persuna arrestata tista' tuża biex ighinuha biex tahrab mill-kustodja; jew

(c) għal kull haġa li tista' tkun prova li għandha x'taqsam ma' reat.

(2) Id-dispożizzjonijiet ta' l-artikolu 57 ta' dan il-Kodiċi japplikaw għal perkwizzzjonijiet fuq il-persuna arrestata skond is-subartikolu (1) ta' dan l-artikolu.

#### *Dhul u perkwizzzjoni mal-arrest*

90. (1) Kull ufficjal tal-Pulizija jista' wkoll jidhol u jipperkwizzixxi kull lokal li fih il-persuna arrestata kienet fil-waqt ta' l-arrest jew immedjatament qabel ma kienet arrestata għal provi li għandhom x'jaqsmu mar-reat li dwaru sar l-arrest.

(2) Kull perkwizzzjoni u dhul li jsiru skond id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu jista' jsir biss taħt dawk l-istess kundizzjonijiet stabbiliti għall-hruġ ta' mandat skond is-subartikolu (3) ta' l-artikolu 65 ta' dan il-Kodiċi, barra mill-kundizzjoni stabbilita fil-paragrafu (b) tiegħu.

(3) Id-dispożizzjonijiet ta' l-artikoli minn 75 sa 80 ta' dan il-Kodiċi japplikaw għal oġġetti li għandhom jinqabdu jew jinżammu jew li fil-fatt ikunu nqabdu jew inżammu bħala riżultat ta' perkwizzzjoni li tkun saret skond id-dispożizzjonijiet ta' qabel ta' dan l-artikolu.

*Arrest b'mandat*

91. Meta jkun hemm raġunijiet legittimi għall-arrest ta' persuna, il-Pulizija tista' titlob mandat ta' arrest lill-Maġistrat Inkwirenti, kemm-il darba skond xi dispożizzjoni tal-liġi dak l-arrest jista' jsir minghajr mandat.

**Sub-Titolu II – Mandati**

*Proċedura għall-hruġ ta' mandati*

92. (1) Hlief meta l-liġi tipprovdi mod ieħor, uffiċjal tal-Pulizija għandu, f'kull każ jagħmel talba bil-miktub lill-Maġistrat Inkwirenti għall-hruġ ta' mandat, fejn jagħti r-raġunijiet għal dik it-talba.

(2) Il-Maġistrat Inkwirenti jista' jitlob li l-uffiċjal tal-Pulizija jikkonferma bil-ġurament il-kontenut tar-rikors.

(3) F'każijiet urgenti, ir-rikors u l-mandat jistghu jiġu mibghuta wkoll bil-*facsimile*:

Iżda f'dawn il-każijiet, l-originali għandhom ikunu konsenjati għall-iskrizzjoni kemm jista' jkun malajr.

*Kopji ta' mandati*

93. Kull mandat għandu jsir bi tliet kopji ffirmati, hlief fil-każ ta' komunikazzjoni b' *facsimile*, li kopja minnhom għandha tkun mibghuta lill-persuna li għandha d-dritt tirċeviha, kopja oħra għanda tinzamm mill-Maġistrat Inkwirenti, u oħra mill-uffiċjal tal-Pulizija.

*Rapport ta' arrest*

94. (1) Fejn persuna tkun arrestata, sew jekk b'mandat jew minghajru, l-uffiċjal tal-Pulizija għandu, mill-aktar fis possibli, jgħarraf lill-Maġistrat Inkwirenti, fejn jagħti d-dettalji kollha tal-hin u l-post fejn il-persuna tkun qed tiġi miżmuma.

(2) Il-Maġistrat Inkwirenti jista' jordna li l-persuna arrestata tkun mehuda f'post ieħor b'effett immedjat.

*Ordnijiet immedjati*

95. Kull ordni li tolqot id-drittijiet ta' l-individwi għandu jitwettaq minghajr dewmien u għal dan l-iskop jista' jintbagħat ukoll b'*facsimile* jew bit-telefon, taht dawk il-kundizzjonijiet mehtieġa biex tiġi żgurata l-awtenticità tagħhom.

### Sub-titolu III – Żamma

#### *Dritt ghar-Rilaxx*

96. (1) Persuna miżmuma fil-kustodja tal-Pulizija ghandha tkun mehlusa minnufih, hekk kif ir-raġunijiet ghaż-żamma ta' dik il-persuna ma jibqghux japplikaw, u ma jkunx hemm xi raġuni oħra iehor biex tkompli tinżamm.

(2) Fejn jidher li għall-finijiet tal-ġustizzja, iż-żamma kontinwata, għad tli leġittima, m'għadhiex mehtieġa, il-persuna miżmuma ghandha tiġi mehlusa, kemm-il darba tobbliga ruhha li toqghod u ma titlaqx minn Malta minghajr ma jkun qabel inghatalha l-permess mill-Pulizija u li tirraporta regolarment f'ghassa tal-Pulizija.

(3) L-obbligazzjoni msemmija fis-sub-artikolu (2) tibqa' valida għal żmien ta' mhux aktar minn sitt xhur, sakemm ma tkunx imgedda jew revokata qabel mill-Pulizija.

#### *Htieġa ta' uffiċjal tal-kustodja*

97. F'kull post fejn persuna tista' tinżamm għal aktar minn sitt sigħat, għandu jkun mahtur uffiċjal tal-kustodja, li fuq kwistjonijiet ta' żamma jwieġeb direttament lill-Maġistrat Inkwirenti.

#### *Inkompatibilitajiet*

98. Kull uffiċjal involut fl-investigazzjoni ta' xi reat ma jistax ikun l-uffiċjal tal-kustodja tal-persuna miżmuma mill-Pulizija għal dak ir-reat.

#### *Uffiċjal tal-Kustodja*

99. (1) L-uffiċjal tal-kustodja f'każ ta' għassa tal-Pulizija jkun l-uffiċjal bl-aktar grad oghli preżenti dak il-hin, iżda jekk dak l-uffiċjal ikun l-uffiċjal investigatur, l-uffiċjal tal-kustodja jkun l-uffiċjal bl-aktar grad għoli li jmiss.

(2) L-uffiċjal tal-kustodja fil-post ta' żamma magħżul għal hekk ikun l-uffiċjal mahtur għal dak l-iskop mill-Kummissarju.

#### *Dmirijiet ta' l-uffiċjali tal-kustodja*

100. L-uffiċjali tal-kustodja għandhom:

(a) jehilsu kull persuna li tkun ilha miżmuma għal aktar minn tmienja u erbgħin siegħa mill-waqt ta' l-arrest tagħha, minghajr ma titressaq quddiem qorti skond id-dispożizzjonijiet tal-Kostituzzjoni jew minghajr ordni tal-qorti li tghid hekk:

Izda qabel ma jehles lil dik il-persuna l-uffiċjal tal-kustodja ghandu jgharraf lill-uffiċjal investigatur u lill-Maġistrat Inkwirenti ta' l-ghassa u d-deċiżjoni finali ghandu tittiehed mill-Maġistrat Inkwirenti;

(b) jehilsu lil xi persuna meta hekk ordnati mill-uffiċjal investigatur li kien arrestita jew talab l-arrest tagħha;

(ċ) jiżguraw li persuni miżmuma fl-ghassa tagħhom jew fil-post magħżul għaż-żamma huma trattati skond il-liġi u skond kull kodiċi ta' prattika li jista' johroġ;

(d) iżommu *records* ta' kull haġa li għanda tiġi iskritta b'referenza għal persuna miżmuma, skond dan il-Kodiċi jew xi kodiċi ta' prattika li jista' johroġ;

(e) b'konsultazzjoni ma' l-uffiċjal investigatur jieħdu hsieb kull bżonn mediku jew umanitarju iehor tal-persuna miżmuma u m'għandhom fl-ebda każ jieħdu responsabbiltà personali fejn tkun mitluba xi attenzjoni medika jew tkun tidher li hi meħtieġa;

(f) ifittxu li jiżguraw li l-post fejn ikun qed jinżammu persuni ikun ta' livell aċċettabbli ta' ndafa u kumdità, speċjalment jekk il-persuna miżmuma tkun se torqod fih;

(g) ifittxu li jiżguraw li ma jkun hemmx periklu għall-hajja tal-persuna miżmuma, ukoll jekk din tithalla waħedha.

### *Trasferiment tal-persuna miżmuma*

101. (1) Meta persuna miżmuma tkun trasferita minn post ta' żamma għal iehor, ir-responsabbiltà għall-harsien ta' dik il-persuna tghaddi għand l-uffiċjal tal-kustodja l-ġdid li għandu jassumi r-responsabbiltà.

(2) Maġistrat Inkwirenti jista' jordna f'kull waqt li l-persuna miżmuma tiġi trasferita lejn xi post iehor ta' kustodja.

### *Reviżjoni ta' żamma mill-Pulizija*

102. (1) L-uffiċjal tal-kustodja għandu, personalment jirrevedi ma' l-uffiċjal investigatur iż-żamma kontinwata tal-persuna miżmuma, u jara jekk hix ġustifikata fiċ-ċirkustanzi.

(2) L-ewwel reviżjoni għandha issir fl-ewwel tnax-il siegħa mill-arrest u perjodikament wara b'intervalli ta' mhux iktar minn tnax-il siegħa. Għandu jinżamm *record* ta' kull darba li ssir reviżjoni u tar-riżultat tagħha.

*Allegazzjonijiet ta' trattament hażin*

103. Kull allegazzjoni li l-persuna miżmuma qed tiġi jew ġiet ittrattata hażin waqt il-perjodu taż-żamma tagħha mill-Pulizija għandha tingieb quddiem il-Maġistrat Inkwirenti minghajr dewmien.

*"Records" taż-żamma*

104. L-uffiċjal tal-kustodja għandu jżomm reġistru li fih iniżżel dawk id-dettalji personali li jservu għall-identifikazzjoni ta' kull persuna miżmuma fl-għassa tal-pulizija fejn l-uffiċjal hu stazzjonat kif ukoll kull informazzjoni oħra rilevanti b'referenza għaž-żamma tal-persuna miżmuma nklużi:

- (a) l-isem ta' l-uffiċjal li għamel l-arrest;
- (b) id-data u l-hin ta' l-arrest;
- (ċ) id-data u l-hin li fihom il-persuna miżmuma nġiebet fl-għassa;
- (d) il-hin ta' kull interrogazzjoni u kemm damet;
- (e) il-hin u r-riżultat ta' kull reviżjoni ta' detenzjoni;
- (f) il-hin u n-natura ta' xi htieġa ta' parir jew trattament mediku u l-azzjoni mehuda minhabba dan;
- (g) id-data u l-hin ta' kull trasferiment tal-persuna miżmuma għal xi post ieħor b'indikazzjoni ta' dan il-post;
- (h) id-data u l-hin li l-persuna miżmuma nhelset u b'liema awtorità tkun nhelset.

*Perkwizzizzjoni ta' persuni miżmuma*

105. (1) L-uffiċjal tal-kustodja għandu jżomm record bil-miktub ta' kull oġġett li jkun fil-pussess tal-persuna arrestata li tkun se tinżamm fl-għassa tal-pulizija u ta' kull haġa maqbuda u miżmuma skond xi dispożizzjoni tal-liġi. Din l-iskrizzjoni għanda tiffirma parti mir-records tal-kustodja tal-persuna miżmuma.

(2) L-uffiċjal tal-kustodja jista' jaqbad kull haġa, inklużi hwejjeġ u affarijiet personali, fil-pussess tal-persuna arrestata jekk ikollu raġunijiet xierqa biex jemmen li dawk l-affarijiet jistgħu jkunu prova li għandha x'taqsam mar-reat jew jekk jemmen li jistgħu jintużaw minn dik il-persuna biex —

- (a) tikkaġuna danni fiżiċi lilha nnifisha jew lil haddieħor; jew

- (b) toħloq danni lil proprjetà; jew
- (d) tfixkel il-provi; jew
- (e) tiffacilita li tkun tista' tahrab.

(3) Id-dispożizzjonijiet ta' l-artikoli minn 75 sa 80 ta' dan il-Kodiċi japplikaw f'każ ta' qbid magħmul skond dan l-artikolu.

#### *Perkwizzjoni intima tal-persuna miżmuma*

106. Meta l-uffiċjal li jagħmel l-arrest jew l-uffiċjal tal-kustodja jkollu suspett raġunevoli li l-persuna arrestata setgħet hbiet fuq il-persuna tagħha xi droga li l-pussess illegali tagħha jikkostitwixxi reat kriminali jew xi oġġett iehor li jaqa' taht id-deskrizzjoni ta' oġġetti msemmija fl-artikolu 105 ta' hawn fuq, l-istess uffiċjal jista' jitlob lill-Maġistrat Inkwirenti biex jordna perkwiżizzjoni intima tal-persuna arrestata.

#### *Esperti li għandhom jinħatru*

107. (1) Fuq talba għall-ordni ta' perkwiżizzjoni intima taht l-artikolu 106 il-Maġistrat Inkwirenti għandu jahtar espert biex jagħmel il-perkwizzjoni b'dawk il-garanziji li jidhirlu meħtieġa għall-finijiet ta' deċenza u biex jirrapportalu s-sejbiet tiegħu. Kopja ta' dan ir-rapport għandha tintbagħat mingħajr dewmien lill-uffiċjal li jagħmel l-arrest jew lill-uffiċjal tal-kustodja, skond il-każ.

(2) L-ebda persuna ma tista' tinhatar espert biex tagħmel perkwiżizzjoni intima fuq persuna tas-sess oppost kemm-il darba l-espert ma jkunx tabib u l-persuna li għanda tiġi perkwiżita ma tagħtix il-kunsens tagħha bil-miktub.

#### *Qbid*

108. Kull haġa misjuba bhala riżultat ta' perkwiżizzjoni intima taht l-artikoli ta' qabel tista' tinzamm temporanjament mill-espert u tista' sussegwentement tinqabad b'ordni tal-Maġistrat Inkwirenti, riċevuta tagħha għanda tingħata lill-persuna miżmuma.

### **Sub-titolu IV – Drittijiet tal-Persuna Miżmuma**

#### *Dritt li tgharraf lil ħbieb u għal assistenza medika*

109. (1) Meta l-persuna arrestata jew miżmuma hekk titlob, il-Pulizija għandha d-dmir li tgharraf xi qarib jew ħabib, li ma jkunx qarib jew ħabib li huwa raġunevolment suspettat li hu mdahħal fir-reat li għalih ġiet arrestata l-persuna miżmuma. It-tagħrif għandu jingħata mingħajr dewmien minn uffiċjal tal-Pulizija u għandu jitniżżel fir-*record* tad-detenzjoni tal-persuna miżmuma.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' hawn fuq, l-uffiċjal investigatur jista' jitlob rikors lill-Maġistrat Inkwirenti biex ikun awtorizzat li jittardja l-komunika ta' dak it-taghrif jekk hemm raġunijiet xierqa ghas-suspett li dak it-taghrif jista' jkun ta' hsara għall-investigazzjoni, għall-ġbir ta' oġġetti jew li jista' jallerta persuni oħra li għanhom x'jaqsmu mar-reat u li għadhom mhumiex fil-kustodja tal-Pulizija. Dan id-dewmien m'għandux ikun aktar tard minn sitt sigħat mill-hin ta' l-arrest.

(3) Fil-każ ta' minuri, il-persuni li jkollhom il-kura u kustodja tal-minuri għandhom: dejjem jiġu mgħarrfa minnufih.

(4) Persuna arrestata għandha d-dritt, jekk titlob għalih, għall-konsulent mediku ta' l-għażla tagħha; kemm il-darba dak il-konsulent mediku jkun jista' jinstab fi żmien raġunevolment qasir:

Iżda meta xi trattament huwa meħtieġ u m'huwiex rakkomandabbli li dan it-trattament isir fil-post fejn il-persuna arrestata tkun qieghda tinzamm, dan it-trattament għandu jsir go sptar pubbliku jew ċentru tas-saħha, u waqt iż-żmien ta' konsultazzjoni jew trattament il-persuna titqies li m'hijiex qieghda taht arrest għalkemm tista' terġa tiġi arrestata meta tispicċa t-trattament.

### *Dritt għal assistenza legali*

110. (1) Kull persuna arrestata u fil-kustodja tal-Pulizija għandha tiġi mgħarrfa ma' l-ewwel okkażjoni li għandha d-dritt għall-assistenza legali u, jekk hekk titlob din il-persuna miżmuma għandha d-dritt għal assistenza legali fil-privat f'kull hin u din it-talba għandha titniżżel fir-rapport tal-kustodja flimkien mal-hin li fih saret.

(2) L-uffiċjal investigatur jew l-uffiċjal tal-kustodja, skond il-każ, għandu minnufih jikkomunika t-talba lil Maġistrat Inkwirenti li għandu jirreferi lill-persuna miżmuma għal parir mingħajr hlas ta' Maġistrat Inkwirenti iehor li hawnhekk iżjed 'il quddiem jissejjah il-Maġistrat Konsulent. Il-persuna fil-kustodja għanda tithalla tikkonsulta mal-Maġistrat Konsulent għal dak il-hin li l-Maġistrat Inkwirenti jidhirlu xieraq fiċ-ċirkustanzi tal-każ.

(3) Il-Maġistrat Inkwirenti jista', fuq oġġezzjoni ġustifikata tal-Pulizija, jittardja xi komunikazzjoni ma' avukat jew prokuratur legali ta' l-għażla tal-persuna fil-kustodja, kif imsemmi fis-subartikolu ta' qabel, jekk ikun hekk meħtieġ il-interessi tal-ġustizzja jew meta jista' jkun li probabbilment teżisti xi waħda miċ-ċirkustanzi msemmija fis-subartikolu (2) ta' l-artikolu 112.

(4) Id-dewmien imsemmi fis-subartikolu (3) ta' dan l-artikolu m'għandu fl-ebda każ ikun ta' aktar minn tmienja u erbghin siegħa mill-hin li fih il-persuna arrestata waslet f'ghassa jew uffiċċju tal-Pulizija minn jeddha jew sitta u tletin siegħa mill-hin ta' l-arrest.

(5) Meta l-eventwali difiża ta' suspettat tista' tiġi preġudikata minhabba xi inferenzi li jistgħu jittiehdu waqt il-kawża mir-rejazzjonijiet, rifjut jew attitudni oħra tiegħu waqt l-interrogazzjoni, f'dawn il-każijiet is-suspettat għandu d-dritt li jikkonsulta ma' Maġistrat Konsulent u ma' avukat jew prokuratur legali ta' l-għażla tiegħu.

(6) Avukat jew prokuratur legali jew konsulent mediku, magħżul mis-suspettat, li jikxef, qabel mas-suspettat jitressaq fil-qorti, lil terza persuna xi taġhrif li jkun sar jaf bih meta kien preżenti biex jassisti lil klijent waqt iż-żamma tiegħu jkun hati ta' reat u jista' jehel piena ta' p:igunerija minn erba' xhur sa sena jew multa, kif ukoll interdizzjoni temporanja mill-eżerċizzju tal-professjoni tiegħu.

(7) Kull avukat jew prokuratur legali li jkun qieghed jassisti persuna li tkun qed tiġi interrogata jista' jithalla mill-Pulizija li fl-aħhar ta' l-interrogazzjoni jagħmel xi domandi oħra, iġib dokument, u jindika xi provi oħra li jistgħu jkunu relevanti.

(8) Avukat jew prokuratur legali li, b'għemilu jostakola t-tmexxija xierqa ta' l-interrogazzjoni jista' jiġi ordnat jirtira u l-uffiċjal investigatur għandu jirrapporta l-fatt, permezz tal-Maġistrat Inkwirenti lill-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja.

(9) Kull uffiċjal tal-Pulizija li jipprova jindika lil persuna arrestata l-avukat jew prokuratur legali li għandu jitqabbad waqt iż-żamma ta' dik il-persuna, ikun hati ta' reat u jista' jehel il-piena ta' ammenda u dan minghajr hsara għal proċedimenti dixxiplinari li jistgħu jittiehdu kontra tiegħu.

### *Il-Maġistrat Konsulent*

111. (1) Il-Maġistrat Konsulent għandu jaġixxi l-hin kollu fl-interess uniku tal-persuna arrestata, u għandu jagħtih parir fuq id-drittijiet tiegħu skond il-ligi u wkoll li, bil-kunsens minn qabel tal-persuna arrestata jirreferi lill-Maġistrat Inkwirenti nvolut fl-investigazzjoni kull talba għas-smigh ta' xi persuna jew għall-għbir u żamma ta' xi prova li l-persuna arrestata tixtieq li tuża fid-difiża tagħha.

(2) Kull komunikazzjoni li ssir bejn il-persuna arrestata u l-Maġistrat Konsulent taqa' taht is-sigriet professjonali. Il-Maġistrat Konsulent ma jista' bl-ebda mod jiehu parti, kemm direttament jew indirettament, fl-investigazzjoni tar-reat li bih hi suspettata l-persuna arrestata hlief biex ihares l-interessi ta' dik il-persuna.

### *Sospensjoni ta' l-interrogazzjoni*

112. (1) Minghajr hsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, kull interrogazzjoni ulterjuri mill-Pulizija tal-persuna arrestata li tkun talbet parir legali għandha ssir wara li l-persuna arrestata tkun ikkonsultat mal-

Magistrat Konsulent jew ma' avukat ta' l-ghazla taghha skond l-artikolu 111 ta' dan il-Kodiċi.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma japplikawx għal każijiet fejn l-interrogazzjoni ulterjuri tkun awtorizzata mill-Magistrat Inkwirenti, li għandu biss jagħti l-awtorizzazzjoni tiegħu meta jkollu raġunijiet xierqa li jemmen li d-dewmien tal-interrogazzjoni, sakemm il-persuna arrestata tingħata parir legali:

(a) iwassal għal indhil ma' jew hsara għall-provi li għandhom x'jaqsmu mar-reat investigat jew indhil ma' jew danni fiżiċi għal xi persuni ohra; jew

(b) iwassal għall-allarmar ta' persuni ohra suspettati li għamlu dak ir-reat iżda li jkun għadhom ma' ġewx arrestati għalih; jew

(ċ) ifixkel l-irkuprar ta' proprjetà akkwistata bħala riżultat ta' dak ir-reat.

#### *Reġistrazzjoni ta' interrogazzjonijiet fuq 'tapes' u 'videos'*

113. Il-Ministru għandu d-dmir li jagħmel regolamenti li jipprovdu għal kodiċi ta' Prattika dwar ir-reġistrazzjoni tas-smigh fuq *tape* u r-reġistrazzjoni bil-*video* fuq film ta' kull interrogazzjoni ta' persuna suspettata li għamlet reat kif speċifikat fl-istess regolamenti.

#### *Tehid ta' marki tas-swaba u kampjuni ohra*

114. L-uffiċjal investigatur bl-assistenza ta' dawk in-nies kompetenti kif ikun mehtieg u bil-kunsens xieraq, jista' jiehu –

(a) marki ta' swaba, marki tal-pala ta' l-id u marki ohra tal-persuna arrestata;

(b) ritratti tal-persuna arrestata u ta' parti mhux intima ta' ġisimha;

(ċ) kampjuni mhux intimi minn fuq il-persuna arrestata.

#### *Kampjuni taħt awtorizzazzjoni*

115. L-uffiċjal investigatur jista' b'rikors jitlob lill-Magistrat Inkwirenti jawtorizza l-proċedura mehtiega –

(a) meta jkollu raġunijiet xierqa biex jehtieg li jittiehdu kampjuni intimi minn fuq il-persuna arrestata; jew

(b) biex jiehu ritratti ta' partijiet intimi tal-persuna arrestata; jew

(ċ) meta l-persuna arrestata ma taghtix il-kunsens taghha ghal xi procedura skond l-artikolu 114 tal-Kodiċi:

Iżda fejn din it-talba taqa' taht il-paragrafu (a) ta' hawn fuq, ghandhom japplikaw id-dispożizzjonijiet ta' l-artikolu 117 u, jekk it-talba taqa' taht il-paragrafu (b) ta' hawn fuq, ghandhom japplikaw id-dispożizzjonijiet ta' l-artikolu 107 .

#### *Kampjuni minn fuq persuni oħra*

116. Kampjuni minn fuq xi persuna li ma tkunx il-persuna arrestata jistghu jittiehu biss jekk ikun hemm minn qabel il-kunsens bil-miktub ta' dik il-persuna.

#### *Kampjuni intimi bil-kunsens*

117. Bla hsara ghad-dispożizzjonijiet ta' l-artikoli 115 u 118 ta' dan il-Kodiċi, kampjun intimu jista' jittiehed biss minn persuna arrestata biss jekk din taghti l-kunsens xieraq taghha.

#### *Meta l-kunsens jiġi miċċud*

118. (1) Fuq talba skond il-paragrafi (a) jew (b) ta' l-artikolu 115, il-Maġistrat Inkwirenti ghandu jiehu dik l-informazzjoni kollha mill-uffiċjal investigatur biex ikun jista' jiddeċiedi jekk it-talba tkunx ġustifikata jew le.

(2) Fejn il-Maġistrat Inkwirenti jiddeċiedi li t-talba tkun ġustifikata hu ghandu jinterroga lill-persuna arrestata u jispjegalha n-natura tat-talba u r-raġunijiet ghalha u jistaqsiha jekk taghtix il-kunsens taghha għall-proċedura. Hu ghandu jispjega wkoll lill-persuna arrestata li ghandha d-dritt tikkonsulta ma' Maġistrat Konsulent qabel tiddeċiedi jekk taghtix il-kunsens taghha jew le.

(3) Meta il-persuna arrestata taghzel li tikkonsulta ma' Maġistrat Konsulent, id-dispożizzjonijiet ta' l-artikoli 110, 111 u 112 ghandhom japplikaw *mutatis mutandis* u biss wara li l-persuna arrestata tkun ikkonsultat mal-Maġistrat Konsulent tista' tintalab li taghti l-kunsens taghha. Hu d-dmir tal-Maġistrat Konsulent li jispjega lill-persuna arrestata l-konsegwenzi fil-liġi jekk taghti jew tiċhad il-kunsens taghha għall-proċedura mitluba.

#### *Dmir tal-Maġistrat Inkwirenti*

119. Meta l-persuna arrestata taghzel li ma tikkonsultax ma' Maġistrat Konsulent, il-Maġistrat Inkwirenti ghandu jitlobha li taghti l-kunsens taghha bil-miktub għall-proċedura mehtieġa u l-Maġistrat Inkwirenti jkollu d-dmir li jispjega l-konsegwenzi fil-liġi jekk taghti jew tiċhad il-kunsens taghha.

*Proċeduri applikabbli għat-tehid ta' kampjuni*

120. Fejn għandu jittiehed kampjun intimu skond dawn l-artikoli id-dispożizzjonijiet ta' l-artikoli 106, 107 u 108 għandhom japplikaw.

*Inferenzi minn rifjut*

121. Meta l-kunsens xieraq għat-tehid ta' kampjun intimu minn persuna jkun miċhud minghajr raġuni tajba, f'xi proċedimenti għal reat kontra l-persuna, dawk li għandhom jiddeċiedu fuq il-fatti jistgħu jaslu għal dawk l-inferenzi mir-rifjut li jidhru korretti u r-rifjut jista', fuq il-bażi ta' dawk l-inferenzi jitqies li jew bhala li jista' jammonta għal korraborazzjoni ta' xi prova kontra l-persuna li b'riferenza għaliha dak ir-rifjut hu materjali.

*Kampjuni fuq talba ta' persuna arrestata jew ta' persuni oħra*

122. Il-persuna arrestata tista' titlob bil-miktub li l-uffiċjal investigatur jibda xi wiehed mill-proċedimenti msemmija fl-artikolu 114 u kull talba bħal dik għandha tiġi mharsa mill-uffiċjal investigatur bl-assistenza ta' kull persuna kompetenti kif ikun meħtieġ.

*Talba għal kampjuni intimi*

123. Il-persuna arrestata tista' ukoll titlob bil-miktub lill-uffiċjal investigatur jibda xi wiehed mill-proċedimenti msemmija fl-artikolu 115 u kull talba bħal dik għandha tingieb minghajr dewmien quddiem il-Maġistrat Inkwirenti. Il-Maġistrat Inkwirenti għandu jawtorizza l-proċedimenti mitluba wara li jivverifika t-talba magħmula mill-persuna arrestata u d-dispożizzjonijiet ta' l-artikoli 106, 107 u 108 għandhom japplikaw.

*Talba minn persuni oħra*

124. Id-dispożizzjonijiet ta' l-artikoli 122 u 123 għandhom japplikaw ukoll għal kull persuna li għandha raġuni li temmen li jista' jkun il-każ li n-nuqqas li ssir xi wiehed mill-proċedimenti relevanti jista' jwassal biex hi tkun arrestata u miżmuma.

*Tifsir*

125. Għall-finijiet ta' l-artikoli minn 114 sa 124

“kunsens xieraq” tfisser —

(a) dwar persuna li tkun għalqet it-tmintax-il sena, il-kunsens ta' dik il-persuna;

(b) dwar persuna li ghada m'ghalqitx dik l-età imma li tkun ghalqet l-erbatax-il sena, il-kunsens ta' dik il-persuna u tal-ġenitur jew tutur taghha; u

(ċ) dwar persuna li ghada m'ghalqitx l-erbatax-il sena, il-kunsens tal-ġenitur jew tutur taghha

“kampjun intimu” tfisser kampjun ta' demm, sperma jew fluwidu tessutali iehor, urina, saliva jew xaghar pubiku, jew *swab* mehud minn orifizju fil-ġisem ta' persuna;

“kampjun mhux intimu” tfisser —

(a) kampjun ta' xaghar barra minn xaghar pubiku;

(b) kampjun mehud minn difer jew minn taht difer;

(ċ) *swab* mehud minn xi parti tal-ġisem barra minn orifizju fil-ġisem;

(d) marka tas-sieq jew xi marka simili ta' xi parti tal-ġisem ta' persuna barra minn parti minn idu.

### *Identifikazzjonijiet*

126. (1) Meta xi parata ta' l-identità jew identifikazzjoni ta' oġġetti hi mehtieġa minn ufficjal investigatur din ghandha issir minn Maġistrat Inkwirenti, li ghandu jiehu dawk il-passi biex jiżgura li ma jkunx hemm suggerimenti jew influwenzi barranin fl-ghażla maghmula.

(2) Jistghu jsiru regolamenti biex jippreskrivu regoli kif ghandha ssir parata ta' l-identità.

### *Dispożizzjonijiet Ġenerali*

127. (1) Meta investigazzjoni tkun qed issir bil-partecipazzjoni ta' Maġistrat Inkwirenti, jew il-persuna detenuta tkun qed tinżamm f' post ta' kustodja taht il-kontroll dirett tieghu, id-dmirijiet kollha tal-ufficjal tal-kustodja dwar il-ġid ta' dik il-persuna ghandhom japplikaw, *mutatis mutandis* ghall-Maġistrat Inkwirenti.

(2) Meta skond l-artikoli preċedenti xi haġa ghandha tiġi deċiża mill-Maġistrat Inkwirenti, din id-deċiżjoni ghandha ssir b'digriet fejn jaghti ir-raġunijiet ta' fatt u ta' liġi li fuqhom hi bażata.

(3) Meta skond l-artikoli preċedenti, l-ufficjal investigatur hu mehtieġ li jippreżenta rikors, hu ghandu jibbaża t-talba ghar-raġunijiet li hu b'mod ġenwin jemmen li huma veri u raġunevoli, u l-Maġistrat Inkwirenti jista' f'kull każ jitlob li dak ir-rikors ikun konfermat bil-ġurament.

(4) Kull awtorizzazzjoni moghtija minn Maġistrat Inkwirenti, kemm-il darba ma tidherx intenzjoni kuntrarja, taghlaq wara xahar, imma tista' tiġi mġedda fuq kawża tajba.

### **Sub-titolu V – Estensjoni ta' l-Investigazzjonijiet**

#### *Persuna li tingieb quddiem qorti mingħajr akkuża*

128. Meta persuna raġunevolment suspettata li ghamlet reat tingieb quddiem qorti fi żmien tmienja u erbghin siegħa mill-arrest, uffiċjal investigatur jista', jekk b'mod xieraq jemmen li l-interessi tal-ġustizzja hekk jehtieġu u li m'hemm l-ebda preġudizzju serju għall-persuna arrestata, minflok iharrek formalment lil dik il-persuna, jippreżenta talba bil-miktub għall-estensjoni tal-investigazzjoni kif provdut fl-artikolu 129.

#### *Talba għal estensjoni*

129. It-talba msemija fl-artikolu 128 għandha tkun għal estensjoni ta' l-investigazzjoni għal numru speċifiku ta' sigħat, li ma teċċedix tmienja u erbghin siegħa ohra, li hi meqjusa strettament mehtieġa għall-gheluq ta' l-investigazzjoni għal raġunijiet tajbin u suffiċjenti, il-qorti tista', bla hsara għal dak li jingħad fl-artikoli li ġejjin, tawtorizza ż-żamma kontinwata fil-kustodja tal-Pulizija tal-persuna mressqa quddiemha.

#### *Raġunijiet għal prosekuzzjoni*

130. (1) Il-Qorti għandha tisma' lill-uffiċjal investigatur u lil kull uffiċjal iehor bil-ġurament fil-preżenza tal-persuna arrestata dwar —

- (a) ir-raġunijiet għall-fehma tad-detenzjoni kontinwata ta' dik il-persuna li tkun mehtieġa għall-finijiet ta' dawk l-investigazzjonijiet l-ohra;
- (b) in-natura tar-reat, li għalih giet arrestata l-persuna li jirreferi għalih ir-rikors;
- (ċ) in-natura generali tal-provi li fuqhom dik il-persuna giet arrestata;
- (d) liema investigazzjonijiet dwar ir-reati saru mill-Pulizija u liema investigazzjonijiet ohra ikunu qed jiġu proposti minnhom, jekk il-kxiif ta' dan it-tagħrif ma jkunx ta' preġudizzju għall-investigazzjonijiet.

(2) Il-proċedimenti jistghu jsiru fil-maghluq, jekk l-interessi tal-ġustizzja jew tal-persuna detenuta hekk jehtieġu.

#### *Dritt tal-persuna arrestata li tinstema'*

131. Wara li tisma' lill-uffiċjal investigatur u lil kull uffiċjal iehor skond l-artikolu 130, il-Qorti għandha tisma' lill-persuna arrestata dwar ir-raġunijiet li

minhabba fihom jemmen li r-rikors m'ghandux jintlaqa' jew li minhabba fihom ghandha tkun mehlusa minghajr jew taht xi kundizzjonijiet.

### *Deċizzjoni tal-Qorti*

132. Wara kull sottomissjoniji ohra li ssir mill-uffiċjal investigatur jew mill-persuna arrestata, il-qorti ghandha taghti d-deċizzjoni taghha immedjatament f'gheluq is-seduta, fejn tilqa' jew tiċhad ir-rikors. Jekk il-Qorti tilqa' r-rikors il-persuna arrestata tista' tinzamm mill-Pulizija ghal perijodu iehor li ghandu jkun stipulat fid-deċizzjoni, ta' mhux aktar minn tmienja u erbghin siegħa mill-gheluq ta' l-ewwel perijodu ta' tmienja u erbghin siegħa mill-hin ta' l-arrest. Jekk il-qorti tiċhad ir-rikors il-persuna arrestata ghandha tiġi mehlusa minghajr jew taht xi kundizzjoni kif tista' tordna l-qorti, fl-gheluq tat-tmienja u erbghin siegħa mill-hin ta' l-arrest kemm-il darba l-uffiċjal ma jiddeċidix li jakkuza lill-persuna minnufih fil-perijodu ta' tmienja u erbghin siegħa li jkun fadal.

### *Kundizzjonijiet indispensabbli għal estensjoni*

133. (1) Kull rikors li jsir skond dan l-artikolu ghandu jiġi milqugh biss jekk Maġistrat Inkwirenti jikkonferma li —

(a) iż-żamma ulterjuri minghajr akkuza tal-persuna arrestata hi mehtieġa biex tiżgura jew tikkonserva provi li għandhom x'jaqsmu mar-reat li fuqu jinsab arrestat fuq suspett raġunevoli jew biex jingiebu dawn il-provi mill-interrogazzjoni tiegħu;

(b) ir-reat li fuqu jinsab arrestat huwa delitt punibbli b'piena ta' prigunerija; u

(c) l-investigazzjoni qed issir b'mod diligenti u bla dewmien.

(2) Xejn f'dan l-artikolu ma jiftihem li persuna arrestata tista' tibqa' miżmuma minkejja li ma ghadx hemm raġunijiet xierqa li jiġġustifikaw iż-żamma kontinwata.

### *Kundizzjonijiet għar-rilaxx*

134. Meta tistabbilixxi l-kundizzjonijiet tar-rilaxx skond l-artikolu 132, il-qorti tista' biss timponi dawk il-kundizzjonijiet li tqis strettament mehtieġa biex ma tkunx preġudikata l-investigazzjoni.

### TITOLU III - INTERFERENZA FIL-PRIVATEZZA

#### *Limiti ta' interferenza fil-kommunikazzjonijiet*

135. (1) Is-setgha tal-Pulizija li tintercetta jew tinterferixxi f'xi komunikazzjoni, minn issa 'l quddiem maghrufa bhala "setgha tal-intercettazzjoni", għanda tibqa' regolata mil-liġi, u tkun leġittima biss fil-limiti stabbiliti bil-liġi.

(2) Xejn m'għandu jitqies li sar illegalment jekk ikun sar taht is-setghat tal-liġi jew prattika li jkunu fis-sehh f'dak iż-żmien, ukoll jekk il-liġi tkun sussegwentement mħassra jew emendata.

(3) Il-kommunikazzjonijiet li għalihom tapplika s-setgha ta' intercettazzjoni u nterferenza jinkludu dawk trasmessi permezz ta' servizz telefoniku, telegrafiku, jew *computer network*, *electronic mail*, jew xi mezzi elettrici, elettronici jew elektro-manjetiċi ohra, anki jekk registrati, kif ukoll materjal miktub jew stampat li hu normalment kunnsinnat permezz ta' servizz postali jew ta' kurrier.

#### *Awtorizzazzjoni*

136. Il-Pulizija tista' biss tissokta b'xi intercettazzjoni jekk it-talba tagħha tkun awtorizzata b'mod xieraq skond dan il-Kodiċi.

#### *Raġunijiet*

137. Is-setgha tal-intercettazzjoni tista' tintalab biss jekk ikun hemm raġunijiet xierqa biex jitwemmen li —

(a) qegħdin isiru r-reati msemmija fl-artikolu 138 jew atti preparatorji għall-eżekuzzjoni tagħhom qegħdin jiġu magħmula, u

(b) dik l-intercettazzjoni jkollha l-effett li timpedixxi li jsiru l-istess reati jew tikkostitwixxi tagħrif indispensabbli għall-investigazzjoni tagħhom jew sabiex il-hatjin jinstabu hatja.

#### *Delitti soġġetti għal intercettazzjoni*

138. Is-setgha tal-intercettazzjoni tapplika għar-reati li ġejjin —

(a) reati volontarji punibbli b'aktar minn tlett snin prigunerija, li xort'ohra jkun diffiċli li jinkixfu jew li, fiċ-ċirkustanzi tal-każ partikolari jirriżultaw diffiċli biex jinkixfu;

(b) delitti kontra s-sigurtà tal-Istat, l-istituzzjonijiet demokratiċi tiegħu jew il-ġid ekonomiku tiegħu;

(ċ) delitti li jinvolvu drogi illegali u sustanzi psikotropiċi;

(d) delitti li għandhom x'jaqsmu ma' *paedophilia* u pornografija għal skopijiet kummerċjali;

(e) delitti li għandhom x'jaqsmu ma' armi u splussivi;

(f) kuntrabandu;

(g) theddid u molestja permezz tat-telefon jew tas-sistema postali.

#### *Talba tal-Kummissarju*

139. (1) Id-dritt ta' talba għall-awtorizzazzjoni ta' nterċettazzjoni jew interferenza hija vestita fil-Kummissarju personalment jew fid-deputat tiegħu fl-assenza tiegħu, ukoll jekk temporanja.

(2) It-talba għandha ssir bil-miktub u għandha tindika b'mod ċar ir-raġunijiet xierqa li fuqhom hi bażata, u tkun kunsinnata personalment mill-Kummissarju jew mid-deputat tiegħu lill-Avukat Ġenerali.

#### *Referenza lill-Avukat Ġenerali*

140. (1) L-Avukat Ġenerali għandu jiehu konjizzjoni tat-talba.

(2) L-Avukat Ġenerali jista' jitlob li r-rikors jiġi konfermat bil-ġurament, jew li l-Kummissarju jagħti bil-fomm kull tagħrif iehor li jkun jehtieg.

(3) L-Avukat Ġenerali għandu jikkomunika t-talba lil wiehed mill-Imħallfin tal-Qrati Superjuri.

#### *Mandat ta' l-Imħallef*

141. (1) L-Imħallef għandu, jekk jaċċetta t-talba, johroġ mandat li jawtorizza dik l-interċettazzjoni jew interferenza, u jista' jimponi dawk il-limitazzjonijiet li jqis xierqa.

(2) Dan il-mandat għandu jibqa validu għal erbgħin ġurnata. iżda jista' jiġġedded jekk ikun hemm rikors għat-tiġdid tiegħu.

(3) Kopja tal-mandat għandha tkun komunikata mill-Avukat Ġenerali lil Maġistrat Inkwirenti biex ikun jista' jissorvelja l-operat ta' l-interċettazzjoni jew interferenza, u l-Maġistrat Inkwirenti għandu jirreferi lill-Imħallef kull irregolarità jew eċċess fl-eżekuzzjoni tal-mandat.

*Assistenza*

142. (1) Fl-eżekuzzjoni tas-setghat mogħtija b'dak il-mandat, il-Kummissarju jista' jkun assistit minn uffiċjali tal-pulizija oħrajn li lilhom huma delegati funzjonijiet speċifiċi u għandu juża t-tagħmir tal-Korp.

(2) Meta dan it-tagħmir ma jkunx aċċessibbli faċilment, il-Kummissarju jista' b'ordni miktuba minnu jordna r-rekwizzjoni bil-kumpens ta' tagħmir ta' xi korp iehor li jopera servizz ta' telekommunikazzjonijiet msemmija fl-artikolu 135 u jista' jagħti istruzzjonijiet lil impjegati ta' dan is-servizz jew ta' servizz postali msemmi fl-istess artikolu li għandu joqgħod għal dawk l-istruzzjonijiet u jkun marbut bis-sigriet professjonali.

*"Records" ta' delegazzjoni*

143. (1) Il-Kummissarju għandu jzomm reġistru ta' l-ismijiet kollha ta' persuni li kienu delegati jew ordnati li jagħmlu dik l-interċettazzjoni jew interferenza, u għandu f'kull okkażjoni jirreġistra kemm damet dik l-interċettazzjoni jew interferenza, kif ukoll kull dettal iehor rilevanti.

(2) Dawn ir-records għandhom jinżammu mill-Kummissarju, u jkunu aċċessibbli biss għal Imhalled jew għall-Avukat Ġenerali u għall-Maġistrat Inkwirenti, jekk tqum xi kwistjoni dwar jekk il-Kummissarju żammx strettament ma' mandat imsemmi f'dan it-Titolu.

*Attestazzjoni dwar mandat*

144. Digriet ta' Imhalled jew ċertifikat ta' l-Avukat Ġenerali jkun prova finali li l-eżekuzzjoni tal-mandat tkun saret fil-limiti tal-liġi u għalhekk dan ma jistax jiġi kontestat f'qorti.

*"Records" ta' interċettazzjonijiet*

145. (1) Il-Kummissarju għandu jirreġistra u jikkopja kull interċettazzjoni jew interferenza, bil-mezzi li huma kompatibbli mas-sistema tal-komunikazzjoni nterċettata.

(2) F'kull każ, il-Kummissarju jew l-uffiċjal delegat minnu għandu jattesta l-awtentiċità ta' dawn il-kopji.

(3) Il-Kummissarju għandu jagħmel annotament fir-reġistru tiegħu, kif imsemmi fl-artikolu 73, dwar liema kopji saru u n-numru tagħhom, u kif qegħdin jiġu konservati u merfughin minnu.

*Produzzjoni bħala prova*

146. Il-Kummissarju jista', b'ordni iffirmit minnu u kontrofirmat mill-

Maġistrat Inkwirenti, jawtorizza li partijiet rilevanti ta' interċettazzjoni reġistrata jew kopja ta' dokument akkwistata skond dan l-artikolu, jiġu esibiti fi proċedimenti dwar xi reat li jaqa' taht il-mandat.

### *Privileġġ*

147. Minkejja d-dispożizzjonijiet ta' l-artikolu ta' qabel, f'kull proċedimenti quddiem xi qorti jew tribunal, l-ebda ordni ma jista' jinghata lill-Kummissarju jew lil xi uffiċjal jew persuna oħra li tkun hadet sehem f'interċettazzjoni jew interferenza,

(a) biex jesebixxi xi mandat jew xi reġistrazzjoni shiha jew dokument shih kif imsemmi fid-dispożizzjonijiet ta' l-artikolu ta' qabel, kemm-il darba ma jkunx hemm il-kunsens tiegħu u ta' Maġistrat Inkwirenti;

(b) biex jirrispondi xi domanda, kemm fl-eżami prinċipali jew fil-kontroll-eżami, li mix-xehta tagħha tagħti x'jiftiehem jew tissuggerixxi li mandat kien maħruġ, jew li ttiehdet azzjoni taht dan il-mandat jew li l-mandat ma kienx strettament imħares.

### *Projbizzjoni ta' mistoqsijiet*

148. (1) Il-qorti jew it-tribunal għandha dejjem tipprojbixxi li jsiru mistoqsijiet li jfittxu li johorġu xi nformazzjoni kif provdut fl-artikolu 147 tal-Kodiċi.

(2) Kull sottomissjoni li x'aktarx tinfluwenza lil dawk li għandhom jiddeċiedu dwar il-fatti, li n-nuqqas ta' kxif huwa ndikattiv ta' xi irregolarità jew prattika hażina, jew li kien hemm ksur ta' dan it-Titolu, tista' tinvalida l-proċedimenti, u l-qorti jew tribunal tista' tikkundanna lill-persuna li tagħmel dik is-sottomissjoni għall-hlas ta' l-ispejjeż tal-proċedimenti li jkollhom jiġu annullati.

(3) B'dak kollu li hemm fid-dispożizzjonijiet ta' xi liġi oħra, il-Pulizija u l-Avukat Ġenerali għandhom dejjem id-dritt li jappellaw quddiem qorti superjuri, jekk l-ewwel qorti jew tribunal jippermettu dik is-sottomissjoni.

### *Applikabbiltà tal-privileġġ*

149. (1) Id-dispożizzjonijiet ta' l-artikolu preċedenti japplikaw ukoll fejn il-Pulizija tirċievi tagħrif minn persuna privata, li l-identità tagħha għandha tibqa' sigrieta.

(2) Id-dispożizzjonijiet li għandhom x'jaqsmu mal-interċettazzjoni u użu ta' komunikazzjonijiet msemmija f'dan it-Titolu ma japplikawx għal xi konversazzjoni jew skambju epistolari bejn persuna u oħra, meta wahda minnhom tkun teżerċita professjoni u taqa' taht is-sigriet professjonali kif imsemmi fl-artikolu 642 tal-Kodiċi Kriminali.

## TITOLU IV – SETGHAT FUQ PROPRJETÀ PRIVATA

### *Limiti*

150. Bla hsara ghad-dispożizzjonijiet speċjali ta' xi liġi oħra li jippermettu l-indhil fit-tgawdija ta' proprjetà privata, uffiċjal tal-Pulizija jista' jintervjeni biss fl-istess tgawdija jekk ikun awtorizzat jagħmel hekk mil-liġi u f'dawk il-limiti.

### *Yifsir ta' Setghat*

151. Is-setgħa li jintervjeni f'haġa tinkludi —

(a) id-dritt li titnehħa u tinzamm haġa li tkun qiegħda tikser il-liġi, u —

(i) li ma tnehhitx volontarjament minn sidha; jew

(ii) li ma tnehhitx mis-sid fiż-żmien mogħti f'intimazzjoni bil-miktub notifikata lilu li tordnalu li jnehħi l-haġa; jew

(iii) is-sid tal-haġa ma jistax jinstab; jew

(iv) li hemm il-htieġa li titnehħa b'urġenza;

(b) id-dritt li jitwaqqa' xi bini jew struttura li hi kawża ta' periklu imminenti għall-pubbliku.

### *Regolamenti*

152. Regolamenti magħmula taħt dan il-Kodiċi jistgħu jistabbilixxu l-każijiet fejn dan l-intervent hu permess, u taħt liema kundizzjonijiet u garanziji għas-sid, u barra minn hekk jistgħu jippreskrivu l-kundizzjonijiet għar-rilaxx ta' kull haġa mnehħija, inkluż il-hlas ta' spejjeż li saru għat-tnehħija tagħha.

### *Eżenzjonijiet*

153. (1) Il-Korp ma jitqiesx responsabbli għad-danni jew għat-telf ta' proprjetà, meta jirriżulta li l-Pulizija aġixxit fl-eżekuzzjoni legittima tal-liġi, u li dak l-eżerċizzju kien raġunevolment ġustifikat fiċ-ċirkustanzi.

(2) Bl-istess mod il-Korp ma jitqiesx responsabbli għad-danni, meta dawn jiġu kaġunati biex tiġi konservata hajja jew biex jipprevjenu dannu aktar gravi fuq proprjetà.

## TITOLU V – L-UŻU TAL-FORZA

*Proporzjonalità*

154. L-uffiċjali tal-pulizija jistghu jagħmlu użu minn dik il-forza li tkun moderata u proporzjonata biex jiżguraw il-ħarsien tal-liġijiet.

*L-aħħar rimedju*

155. L-użu tal-forza għandu jkun l-aħħar rimedju, u għandha tintuża biss meta jkun evidenti li r-rimedji l-oħra kollha jkunu ta' xejn, u tintuża biss għaż-żmien li jkun strettament meħtieġ.

*Hin rilevanti*

156. Meta tqum il-kwistjoni f'xi qorti jew tribunal dwar jekk l-użu tal-forza kienx raġonevoli, iċ-ċirkustanzi li kienu jeżistu fil-hin meta ntużat il-forza għandhom iservu bħala kriterju biex tiġi eżaminata dik ir-raġunevolezza.

*Armi*

157. (1) Il-Korp, fl-esekuzzjoni tad-dmirijiet tiegħu jista' jagħmel użu, f'ċirkustanzi eċċezzjonali, minn armi tan-nar u armi jew materjali offensivi oħrajn.

(2) Meta jkunu qegħdin jiġu stmati ċ-ċirkustanzi eċċezzjonali msemmija fis-subartikolu (1) hawn fuq, dawn għandhom ikunu tali li meta wieħed iżomm f'moħħu l-kundizzjonijiet li kienu jipprevalu f'dak il-hin partikulari, l-użu ta' l-armi tan-nar jew armi u materjal oħra jkun inevitabbli biex tiġi konservata l-ħajja ta' uffiċjal tal-Pulizija jew ta' oħrajn, jew biex jitbiegħed periklu imminenti ta' vjolenza mferrxa.

*Responsabbiltà*

158. Bla ħsara għal xi obbligi kriminali jew ċivili taht xi liġi oħra, għandu jitqies bħala reat kontra d-dixxiplina l-użu ta' forza minn uffiċjal tal-Pulizija għall-skopijiet ta' vendetta.

*Kodiċi ta' Prattika*

159. Jistghu jsiru regolamenti biex jiġi regolat l-użu tal-forza u ta' armi tan-nar.

*Riżerva Ġenerali*

160. Id-dispożizzjonijiet ta' din il-Parti jkunu b'żieda ma' kull setgħa oħra mogħtija b'xi liġi oħra.

## TAQSIMA VII – KONTROLL U RESPONSABBILTÀ

### TITOLU I – IL-MAGISTRATI INKWIRENTI

#### *Twaqqif tal-kariga*

161. (1) Ghandhom jigu mahtura Magistrati Inkwirenti, li s-setghat, dmirijiet u funzjonijiet taghhom ikunu dawk stabbiliti f'dan il-Kodiċi, fil-Kodiċi Kriminali u f'ligijiet oħrajn.

(2) Il-Magistrat Inkwirenti m'ghandux setgha li jippresjedi f'xi qorti.

(3) Il-kariga ta' Magistrat Inkwirenti hija kariga pubblika u r-rimunerazzjoni tiegħu tiġi addebitata lill-Fond Konsolidat u tiġi regolata taht il-voti tal-Ġudizzjarju fl-Estimi Annwali tal-Gvern.

#### *Hatra*

162. Il-hatra ta' Magistrat Inkwirenti ssir mill-President fuq il-parir tal-Prim Ministru.

#### *Kwalifiki*

163. (1) Persuna tista' tinhatar bhala Magistrat Inkwirenti jekk ikollha *warrant* ta' Avukat jew Prokuratur Legali.

(2) Jistgħu jsiru regolamenti biex jistabbilixxu n-numru ta' snin ta' prattika fil-professjonijiet rispettivi li jistgħu jkunu mehtieġa għall-hatra ta' Magistrat Inkwirenti.

#### *Żamma tal-kariga*

164. Magistrat Inkwirenti ma jistax jitnehha mill-kariga tiegħu hlief fuq il-parir tal-Kunsill għall-Amministrazzjoni tal-Ġustizzja ndirizzat lill-Prim Ministru li għandu jaġixxi skond l-artikolu 110 tal-Kostituzzjoni.

#### *Ġurament tal-hatra*

165. Qabel ma jidhol għad-dmirijiet tal-funzjonijiet tiegħu, Magistrat Inkwirenti għandu jiehu l-ġurament tal-lealtà u l-ġurament tal-kariga kif speċifikat fit-Tielet u r-Raba' Skeda li jinsabu ma' dan il-Kodiċi.

#### *Inkompatibilitajiet*

166. (1) Magistrat Inkwirenti ma jistax jeżerċita privatament il-professjoni tiegħu, kemm direttament kif ukoll indirettament.

(2) Maġistrat Inkwirenti ma jistax jaġixxi għall-prosekuzzjoni fl-ebda każ quddiem il-Qrati.

(3) Maġistrat Inkwirenti ma għandux jiehu sehem f'xi attività barranija li hi nkompatibbli jew li ma taqbilx mal-funzjonijiet tiegħu.

#### *Astensjoni*

167. Maġistrat Inkwirenti għandu jastjeni mill-eżerċizzju tal-funzjonijiet kollha, f'dawk il-każijiet kollha fejn jaf jew ikollu raġuni li jemmen li hemm raġunijiet simili bħal dawk imsemmija fil-paragrafi (a), (b), (ċ) u (e) u sa fejn applikabbli, il-paragrafu (d) ta' l-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Civili, jew għar-raġuni li l-kwistjoni għandha x'taqsam ma' reat li jkun sar bi hsara għalih jew għal martu jew żewġha jew għal xi persuna oħra li tiġi minnu mid-demmm jew imħallat miegħu bi żwieġ fil-grad msemmin fil-paragrafi (a) u (b) ta' l-artikolu fuq imsemmi.

#### *Indipendenza u Imparzialità*

168. (1) Fl-eżerċizzju ta' xi setgħat mogħtija lilu bil-liġi li jawtorizzawh li jeżerċita dawk is-setgħat skond il-ġudizzju tiegħu personali, Maġistrat Inkwirenti m'għandu qatt ikun suġġett għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

(2) Maġistrat Inkwirenti li ma jkunx qieghed jaġixxi bhala Maġistrat Konsulent jaqdi l-funzjonijiet tiegħu b'imparzialità fl-interessi supremi tal-ġustizzja.

#### *Setgħa għall-ghoti ta' ġuramenti*

169. Maġistrat Inkwirenti għandu s-setgħa li jagħti ġurament.

#### *Sigriet Professjonali*

170. (1) Maġistrat Inkwirenti hu marbut bis-sigriet professjonali hliet sakemm il-kxiif ma jkunx meħtieġ fil-kawża u għall-eżerċizzju xieraq tad-dmirijiet tiegħu skond il-liġi.

(2) Maġistrat Inkwirenti ma jistax jirrilaxxa, kemm direttament kif ukoll indirettament, xi informazzjoni lill-istampa jew lill-mezzi oħra ta' informazzjoni, u lanqas ma jista' jaċċetta li jiġi ntervistat fuq xi kwistjoni li għandha x'taqsam mal-funzjonijiet tiegħu.

*Anzjanità*

171. Meta jiġu mahtura aktar minn Maġistrat Inkwirenti wiehed, l-ewwel wiehed li jiġi mahtur għandu jitqies bhala l-Prim Maġistrat Inkwirenti, għalkemm il-pożizzjoni tiegħu hi dejjem dik ta' l-ewwel fost persuni ndaq.

*Digriet*

172. Meta l-liġi tistabbilixxi li l-Maġistrat Inkwirenti jagħti ordni f'digriet, dak id-digriet għandu b'mod ċar u konċis jispjega r-raġunijiet li fuqhom huwa bażat.

*Reġistru*

173. Għandu jkun hemm reġistru tal-Maġistrati Inkwirenti, li għandu jkun distint minn dak tal-Pulizija. Kull persuna li tkun assenjata biex taqdi dmirijiet f'dan l-uffiċċju tkun marbuta bil-ġurament ta' segretezza.

*Preżentata ta' Rikorsi*

174. Meta l-liġi tistabbilixxi li rikors jista' jew għandu jsir quddiem Maġistrat Inkwirenti, dak ir-rikors jista' jiġi preżentat fir-reġistru tal-Maġistrat Inkwirenti, komunikat permezz ta' *facsimile* jew mibgħut lill-Maġistrat Inkwirenti bil-posta reġistrata. Meta rikors jiġi komunikat bil-*facsimile* l-original għandu jiġi preżentat fir-reġistru tal-Maġistrat Inkwirenti jew mibgħut bil-posta reġistrata kif ingħad qabel fl-istess jum jew fil-jum tax-xogħol li jkun imiss.

*Smigh "in camera"*

175. Meta l-liġi tistabbilixxi li mandat għandu jinkiseb mill-Pulizija mingħand Maġistrat, il-Maġistrat Inkwirenti jista' jisma' personalment lill-uffiċjal tal-Pulizija *in camera* u jkun sodisfatt mir-raġunijiet mogħtija qabel ma johrog dak il-mandat.

*Limitazzjoni ta' delegazzjoni*

176. Maġistrat Inkwirenti ma jistax jiddelega xi wahda mill-funzjonijiet tiegħu lil xi persuna oħra, kemm-il darba ma jkunx awtorizzat li jagħmel hekk skond dispożizzjoni espressa tal-liġi.

*Dmirijiet taħt dan il-Kodiċi*

177. Il-Maġistrat Inkwirenti għandu jfittex li jiggarrantixxi, bil-funzjoni imparzjali u istituzzjonali tiegħu, il-ġenwinità ta' provi materjali li jeżistu fuq ix-xena ta' kull delitt allegat jew ta' kull esperiment li jista' jkun meħtieġ, u d-dmirijiet l-oħra kollha mogħtija lillu b'dan il-Kodiċi.

*Dmirijiet taht liġijiet oħra*

178. Il-Maġistrati Inkwirenti jistgħu jingħataw dmirijiet oħra kif stabbiliti bil-liġi.

*Esperimenti Xjentifiċi*

179. Il-Maġistrat Inkwirenti permezz tal-Prim Maġistrat Inkwirenti jista' jagħti dawk l-istruzzjonijiet u direttivi ta' karattru ġenerali jew speċjali lill-kap amministrattiv ta' xi laboratorju forensiku tal-gvern li jipprovdi s-servizz tiegħu għall-amministrazzjoni tal-ġustizzja biex jiggarrantixxi l-funzjonament ġust u mparzjali ta' l-imsemmi laboratorju.

*Regolamenti*

180. Jistgħu jsiru regolamenti mill-Ministru responsabbli għall-ġustizzja, għall-funzjonament xieraq ta' kull haġa li tinsab f'din il-Parti ta' dan il-Kodiċi, inkluzi regolamenti li għandhom x'jaqsmu mal-konservazzjoni ta' provi materjali miġbura minn fuq ix-xena ta' delitt u l-immagini permezz ta' ritratti jew reġistrazzjoni fuq *video* u l-konservazzjoni ta' dawk ir-records.

*Riżerva*

181. In-nuqqas li jsiru l-imsemmija regolamenti ma jzommx lill-Maġistrati Inkwirenti milli jidhlu fil-qadi tal-kariga tagħhom u milli jwettqu l-funzjonijiet tagħhom, kif stabbilit f'dan il-Kodiċi jew fil-Kodiċi Kriminali.

*Relazzjonijiet mal-pubbliku*

182. Kull persuna li għandha nteress f'investigazzjoni li jkollha x'taqsam ma' reat li tiegħu tista' tkun vittma jew xhud, tista' tikkomunika bil-miktub mal-Maġistrat Inkwirenti.

*Tehid lura ta' proprjetà*

183. Kull persuna, li mill-pussess tagħha jkun ġie maqbud xi oġġett ta' proprjetà mill-Pulizija waqt li kienet qed issir investigazzjoni jew li b' xi mod iehor għandha nteress fl-istess proprjetà, tista' b'rikors titlob lill-Maġistrat Inkwirenti li jehles favur tiegħu l-proprjetà hekk maqbuda u l-Maġistrat Inkwirenti għandu jiddeċiedi fuq it-talba wara li jkun semgħa r-risposta tal-Pulizija.

*Uffiċjal Ġudizzjarju*

184. Maġistrat Inkwirenti huwa, għall-finijiet ta' l-artikolu 5(3) ta' l-Ewwel Skeda ta' l-Att dwar il-Konvenzjoni Ewropea (Kap. 319), uffiċjal ġudizzjarju.

## TITOLU II – IL-BORD TAL-PULIZIJA

### *Twaqqif tal-Bord tal-Pulizija*

185. (1) Ghandu jkun hemm Bord tal-Pulizija magħmul minn dawk il-membri li jkunu mahtura ta' kull sena mill-President, li ma jkunux aktar minn hamsa, li wiehed minnhom ikun iċ-*Chairperson*.

(2) Il-membri jzommu l-kariga tagħhom għall-perjodu ta' sena mill-ewwel ta' Jannar tas-sena li għaliha nhatru u jistgħu jergħu jinhatru mill-ġdid.

(3) Jekk ikun hemm post battal fil-Bord matul is-sena, minhabba mewt, riżenja, jew xi kawża oħra, il-President ghandu mill-aktar fis possibli, jahtar persuna oħra biex timla' l-post battal:

Iżda l-Bord u l-membri għandhom jaġixxu għalkemm ikun hemm dak il-post battal.

(4) Il-President meta jagħmel xi hatra għandu jimxi skond il-ġudizzju meqjus tiegħu stess wara li jfittex il-parir ta' kull persuna li hu jqis xieraq li jikkonsulta.

### *Funzjonijiet tal-Bord*

186. Il-Bord tal-Pulizija ghandu jkollu dawn il-funzjonijiet li ġejjin —

(a) li jistharreġ u jirrapporta b'heffa fuq kull ilment li jirċievi, jew xi lment li jirċievi l-Ministru jew ukoll li jitqajjem fil-medja, li jkollu x'jaqsam mal-kondotta tal-Korp jew ta' xi wiehed mill-membri tiegħu;

(b) li jistharreġ u jirrapporta fuq kull ilment magħmul lilu minn xi uffiċjal dwar trattament li hu jqis li hu ta' preġudizzju għalih jew diskriminatorju, jew li jikkagunалу tbatija bla bżonn;

(ċ) li jissorvelja s-seduti dixxiplinari nterni tal-pulizija u jgħarraf lill-Ministru bis-sejbiet li jagħmel, bis-setgħa ta' kull membru li jattendi bhala rappreżentant tal-pubbliku fis-seduti miżmuma mill-Kummissarju fl-eżerċizzju ta' proċeduri dixxiplinari delegati lilu kif imsemmi fl-artikolu 31;

(d) li jkun sodisfatt bit-trattament tal-pubbliku mill-Pulizija, biż-żamma ta' l-amenitajiet li tagħhom għandu aċċess il-pubbliku, u li jissorvelja u jżur kull ċella fejn ikunu miżmuma persuni, u li jirrapporta dwar dan lill-Ministru;

(e) li jissorvelja x-xogħol tat-Taqsima ta' l-Affarijiet Interni fi hdan il-Korp tal-Pulizija u jirreferi lilha kull haġa li jidhirlu;

(f) li jestendi l-funzjonijiet tiegħu għall-attivitajiet ta' impjegati ċivili fil-Korp dejjem fil-ġurisdizzjoni mogħtija skond il-paragrafi ta' qabel;

(g) li jaqdi kull funzjoni ohra li tista' tigi assenjata lilu b' regolamenti, jew b' xi istruzzjoni bil-miktub *ad hoc* tal-Ministru, u li jibghat kull rapport hekk kif ikun lest lill-Ministru, lill-Kumitat tal-Affarijiet Soċjali tal-Kamra tad-Deputati u lill-Kummissarju tal-Pulizija.

#### *Laqgħat tal-Bord*

187. (1) Il-Bord tal-Pulizija għandu jiltaqa' għall-inqas darba fix-xahar fil-post li jista' jkun stabbilit għal dawn il-laqgħat.

(2) Il-*quorum* fil-laqgħat għandu jkun ta' nofs in-numru tal-membri u wiehed.

(3) Kull deċiżjoni tista' tittiehed biss b' maġġoranza tal-voti tal-membri preżenti u li jivvotaw, biċ-*Chairman* juża l-vot deċiżiv meta l-voti jkunu ndaq.

(4) Il-minuti tal-laqgħat għandhom jinżammu mis-Segretarju tal-Bord tal-Pulizija, li wkoll hu l-kustodju ta' kull dokument relevanti, li għandhom jinqraw u jiġu konfermati u ffirmati miċ-*Chairman* u mis-Segretarju fi tmiem il-laqgħa.

(5) Il-Bord għandu xort'ohra jirregola l-proċedura tiegħu stess.

#### *Dehriet quddiem il-Bord*

188. (1) Il-Kummissarju jew xi uffiċjal tal-Pulizija jew xi mpjegat ċivili jista' jiġi mitlub jidher quddiem dan il-Bord u jirrispondi għal domandi u jipprovdi tagħrif li jista' jkun relevanti għall-Bord fl-eżekuzzjoni tad-dmirijiet tiegħu.

(2) Min jagħmel l-ilment jista' wkoll jiġi mitlub jattendi quddiem il-Bord tal-Pulizija u jagħti iktar tagħrif.

#### *Delega ta' funzjonijiet*

189. Il-Bord tal-Pulizija flimkien mat-Taqsima tal-Affarijiet Interni jista' jassenja lil xi wiehed mill-membri tiegħu d-dmir li jiġbor tagħrif u provi u dan il-membri għandu jirraporta lura lill-Bord.

#### *Deċiżjonijiet*

190. (1) Fid-deċiżjonijiet tiegħu l-Bord jista' jirrakkomanda dik l-azzjoni li jqis xierqa.

(2) Fejn jirriżulta li l-kwistjoni tista' tinvolvi proċeduri kriminali, il-Bord tal-Pulizija għandu jgħarraf bis-sejbiet tiegħu lill-Avukat Ġenerali u lill-Kummissarju tal-Pulizija.

*Eċċezzjonijiet*

191. (1) B'dak kollu li jinghad fid-dispożizzjonijiet ta' dan it-Titolu, il-Bord tal-Pulizija jew xi membru tieghu ma ghandux id-dritt li jispezzjona xi dokumenti jew li jikseb taghrif minn ufficjal tal-Pulizija li, kieku kellu dak id-dokument jiġi mitlub minn qorti tal-ligi, kien ikun eżentat mill-produzzjoni ta' dawk il-provi.

(2) Bl-istess mod l-ebda dokument jew taghrif li juri li tkun qed issir investigazzjoni kriminali fuq xi persuna partikolari ma jkun aċċessibli għall-Bord jew għal xi membru tieghu.

*Taqsimata ta' l-Affarijiet Interni*

192. (1) F'dan it-Titolu il-kliem "Taqsimata ta' l-Affarijiet Interni" tfisser id-dipartiment intern fil-Korp tal-Pulizija li lilu jinghata l-inkarigu li jissorvelja interament il-hidma tal-Korp u r-responsabbiltà tieghu, ikun x'ikun l-isem li tista' tkun maghrufa bih dik it-Taqsimata.

(2) It-Taqsimata ta' l-Affarijiet Interni ghandha tiġi stabbilita fi hdan il-Korp biex tinvestiga kull ilment fuq ufficjali tal-Pulizija maghmulin kontra taghhom minn membri tal-pubbliku jew minn membru tal-Korp kontra membru iehor u biex tirċievi u teżamina xi ċertifikat fuq rakkomandazzjoni mill-pubbliku dwar ufficjal tal-Pulizija fl-eżekuzzjoni ta' dmirijietu.

*Regolamenti tal-Bord*

193. Il-Ministru jista' jippreskrivi dispożizzjonijiet addizzjonali li ghandhom x'jaqsmu mal-proċeduri jew rimedji tal-Bord tal-Pulizija.

*Rapporti mill-Bord*

194. (1) Il-Bord tal-Pulizija ghandu jaghmel rapport dwar ix-xogħol tieghu kull sitt xhur lill-Ministru u lil Kumitat tal-Kamra tad-Deputati li jiġi magħżul u lill-Kummissarju tal-Pulizija.

(2) Il-Bord tal-Pulizija jista' jippubblika sintezi tar-rapport tieghu, filwaqt li juża d-diskrezzjoni xierqa fejn l-interessi ta' individwu privat hekk jitolbu, speċjalment li ma jinkixfux l-ismijiet u l-identità ta' individwi.

(3) Il-membri tal-Bord huma marbuta bid-dispożizzjonijiet tal-Att dwar is-Sigrieti Professionali.

*Astensjoni tal-membri*

195. Kull membru tal-Bord tal-Pulizija ghandu jastjeni ruhu f'kull każ fejn jista' jkollu nteress pekunjarju, professjonali, jew xi interess personali iehor, jew fejn hemm b'xi mod involuta, persuna mhallta mieghu kemm bi żwieg jew mid-demmm sar-raba' grad inkluz.

*Assenza mhux ġustifikata*

196. Membru li jassenti ruhu minn erba' laqghat mingħajr raġuni valida jiġi kunsidrat li rriżenja mill-kariga, u s-Segretarju ghandu jgħarraf lill-President b'dan.

*Reati*

197. (1) Ikun reat kontra d-dixxiplina jekk tingieb prova quddiem il-Bord tal-Pulizija li persuna tkun sussegwentement vittimizzata jew ittrattata b'mod vessatorju, kemm direttament kif ukoll indirettament, minhabba li lmentat mal-Bord tal-Pulizija, u f'dawn il-każijiet, il-Bord tal-Pulizija ghandu jirraporta dik il-kwistjoni *ex officio* lill-Kummissjoni dwar is-Servizz Pubbliku.

(2) Id-dispożizzjonijiet tas-subartikolu (1) japplikaw ukoll għall-impjegati ċivili mal-Korp tal-Pulizija.

(3) Għall-finijiet ta' l-artikoli 100 u 101 tal-Kodiċi Kriminali, il-Bord tal-Pulizija ghandu jitqies bhala "awtorità kompetenti".

### **TITOLU III – KONTROLLI OHRA**

*Kordinazzjoni mal-Kunsilli Lokali*

198. (1) L-ispettur inkarigat minn diviżjoni ghandu jkollu regolarment laqghat f'intervalli xierqa mal-Kunsill Lokali ta' kull lokalità fid-diviżjoni tiegħu biex jiġu diskussi kwistjonijiet li jaqghu taht ir-responsabbiltà tal-Pulizija.

(2) L-ispettur ghandu jagħmel laqgħa kif mitlub mill-Kunsilli Lokali fi żmien ġimgha minn meta ssir it-talba.

(3) Il-minuti ta' dawn il-laqghat għandhom jinżammu u l-progress li jsir bejn laqgħa u ohra għandu jkun sorveljat mis-Supretendent inkarigat mid-distrett u mill-Assistent Kummissarju nkarigat mir-Reġjun.

*Investigazzjonijiet mill-Kummissarju*

199. (1) Il-Kummissarju jista' jagħmel investigazzjoni fuq kull kwistjoni li għandha x'taqsam ma' l-amministrazzjoni tal-Korp, li hu jqis bhala gravi biżżejjed biex tehtieg din l-investigazzjoni.

(2) Fit-tmexxija ta' kull investigazzjoni, il-Kummissarju ghandu l-istess setghat imsemmijin fis-subartikoli (3), (4) u (5) ta' l-artikolu 31 ta' dan il-Kodiċi.

(3) Kull investigazzjoni ssir minghajr hsara ghal kull azzjoni li l-Bord tal-Pulizija imwaqqaf f'dan il-Kodiċi jista' jiehu u l-Bord tal-Pulizija jista' jerga' jsejjah u jsegwi l-investigazzjoni jekk din taqa' taht il-kompetenza tieghu.

## TAQSIMA VIII

### INVESTIGAZZJONIJIET U PROSEKUZZJONIJIET

#### *Regoli ġenerali dwar stqarrijiet*

200. (1) Bla hsara ghar-regoli li jistghu jiġu stabbiliti dwar ir-registrazzjoni *viva voce* ta' stqarrijiet, uffiċjal tal-Pulizija ghandu dejjem jinterroga suspettat fil-preżenza ta' xhud iehor, li ma jistax ihalli l-kamra fejn tkun qed issir l-interrogazzjoni qabel ma tispicċa l-interrogazzjoni. Jekk ikun hemm bżonn, l-interrogazzjoni ghandha tkun sospiza.

(2) Jekk ghandha tittiehed stqarrija bil-miktub, l-uffiċjal investigatur ghandu jaghti lill-persuna suspettata l-ewwel għażla li jikteb l-istqarrija hu stess.

#### *Twissija u parametri tat-twissija*

201. (1) Qabel ma tittiehed stqarrija kemm bil-kitba jew registrata, u sabiex tinghata prova addizzjonali li l-istqarrija kienet volontarja, l-uffiċjal investigatur ghandu jwissi lis-suspettat.

(2) It-twissija ghandha tkun li tfakkar lis-suspettat li:

(a) ghandu dritt kostituzzjonali li jibqa' sieket u li ma jwieġeb ghal ebda domanda;

(b) ghandu d-dritt jiehu parir legali, kif provdut fid-dispożizzjonijiet ta' dan il-Kodiċi, minghand il-Maġistrat Inkwirenti;

(ċ) ghandu jikkunsidra jekk huwiex aktar ta' ġid ghalih li jaghti f'dak l-istadju xi spjegazzjoni jew difiża kontra l-fatti allegati kontra tieghu; u

(d) kull ma jintqal minnu jista' jiġi miġjub bhala prova, u li jekk jagħzel li jibqa' sieket skond id-drittijiet tieghu, il-Pulizija tista' xorta ġġib bhala prova l-mistoqsijiet maghmula lilu.

*Formola tat-twissija stampata*

202. Il-Kummissarju tal-Pulizija ghandu jagħmel formola *standard* li tinkorpora l-kliem tat-twissija, bil-Malti u bl-Ingliż li ghandha tkun stampata flimkien ma' traduzzjoni fl-iktar ilsna komuni, li mill-esperjenza, huma mitkellma mis-suspettati.

*Il-formola għandha tiġi ffirmata*

203 Is-suspettat ghandu jintalab li jiffirma li rċieva kopja tal-formola stampata tat-twissija, u jekk jirrifjuta, dan il-fatt ghandu jiġi mnizzel fuq il-kopja tat-twissija bil-firma ta' l-uffiċjal investigatur u ta' kull xhud li jkun preżenti.

*Ċerti mistoqsijiet*

204. Uffiċjal investigatur li jkun interroga lis-suspettat fi stadju aktar kmieni qabel ma għadda biex jirreġistra stqarrija, ghandu jgib quddiem is-suspettat kull twegiba, jew nuqqas jew rifjut li jwieġeb mistoqsija magħmula qabel u li jkunu relevanti u ghandu jistaqsih:

- (a) jekk huwa jikkonfermax jew jiċhadx li ta dik it-twegiba jew li naqas jew irrifjuta li jwieġeb; jew
- (b) jekk jikkonfermax jew jiċhadx is-sustanza; u
- (ċ) jekk jixtieqx iżid xi haġa oħra.

*Tagħrif dwar ir-reat*

205. L-uffiċjal investigatur ghandu dejjem jgħarraf lis-suspettat qabel kull stqarrija registrata bir-reat li qieghed jiġi investigat.

*Meta s-suspettat ma jitkellimx la bil-Malti u lanqas bl-Ingliż*

206. (1) Stqarrija magħmula minn suspettat li jiddikjara li ma jifhimx jew ma jitkellimx bil-Malti jew bl-Ingliż m'għandiex tittiehed mingħajr l-intervent ta' interpretu fil-lingwa mifhuma u mitkellma mis-suspettat.

(2) L-interpretu jista' jkun membru tal-Korp tal-Pulizija kif ukoll l-uffiċjal investigatur jekk jaf bil-lingwa mifhuma mis-suspettat.

*Suspettati torox jew morda*

207. Il-Kummissarju ghandu jagħmel regoli dwar interrogazzjoni ta' persuni li jidhru li jkunu morda jew torox. L-uffiċjal investigatur ma jistax jibda interrogatorju mingħajr qabel ma jkun hemm l-intervent u ċertifikat ta' tabib, dwar kif hu xieraq li ssir l-interrogazzjoni.

*Suspettati Minorenni*

208. Meta l-persuna arrestata ma tkunx ghalqet is-sittax-il sena, wiehed mill-ġenituri jew gwardjan tagħha ghandu jithalla jkun preżenti waqt l-interrogazzjoni, kemm-il darba dan il-ġenitur jew gwardjan, bl-imġieba hażina tiegħu, ma jfixkilx it-tmexxija xierqa ta' l-investigazzjoni.

*Waqfiet*

209. (1) Kull waqfa li ssir waqt l-interrogazzjoni ghandha tiġi reġistrata kif xieraq jew fl-istqarrija bil-miktub jew fuq it-tagħmir ta' reġistrazzjoni dwar il-hin meta l-interrogazzjoni ġiet sospiżta u tkomplet. L-uffiċjal investigatur ghandu jindika mill-bidu x'waqfiet huma maħsuba li jsiru u dawk ghandhom jiġu osservati.

(2) Is-suspettat ghandu dritt jitlob waqfiet xierqa waqt l-interrogazzjoni:

Iżda s-suspettat m'għandux jinghata waqfiet repetuti li jkollhom tendenza jfixklu t-tmexxija xierqa u ġusta ta' l-interrogazzjoni.

*Qari u ffirmar*

210. (1) Meta tispicċa l-interrogazzjoni, l-uffiċjal investigatur ghandu jagħti l-opportunità lis-suspettat li jżid ma' jew jiċċara xi haġa li jkun qal qabel.

(2) Jekk is-suspettat jiddikjara li jaf jaqra, l-uffiċjal investigatur ghandu jagħti kopja ta' din l-istqarrija lis-suspettat qabel ma jiġi mistoqsi jekk jixtieqx jiffirmaha jew le.

*Lealtà lejn il-Qorti*

211. (1) Kull uffiċjal prosekutur huwa uffiċjal tal-Qorti u minhabba f'hekk hu marbut li jġib ruħu imparzjalment u kif xieraq, u ghandu juri r-rispett xieraq lill-Qorti.

(2) Uffiċjal prosekutur ma jistax jissottometti lill-Qorti, ukoll jekk mhux taht ġurament, xi fatt li jaf li m'huwiex veru, jew xjentement jiżgwida lill-Qorti b'xi sottomissjoni fuq l-interpretazzjoni tal-liġi jew tal-fatti.

(3) L-imġieba msemmija fis-subartikolu (2) ta' dan l-artikolu hija, mingħajr hsara għal xi proċedimenti oħrajn, reat kontra d-dixxiplina.

(4) Uffiċjal prosekutur, li jhossu aggravat li ġie ittrattat ingustament jew insultat fl-eżekuzzjoni tad-dmirijiet tiegħu meta jkun qed jidher quddiem qorti, ghandu jagħmel l-ilment tiegħu lill-Kummissarju għal kull azzjoni li tista' tittiehed quddiem il-Kummissjoni għall-Amministrazzjoni tal-Gustizzja.

*Prosekuzzjonijiet vessatorji*

212. Ikun reat kontra d-dixxiplina jekk uffiċjal tal-Pulizija jakkuża quddiem il-qrati suspettat b'reat li hu manifestament infondat jew li ma jistax jkun raġunevolment dedott mill-provi li jkollu quddiemu. Id-dispożizzjonijiet ta' Taqsima IV ta' dan il-Kodiċi tapplika f'dawn il-kazijiet.

*Il-Pulizija u l-medja*

213. (1) Il-Pulizija m'għandhiex tagħti xi dettalji lill-istampa dwar xi persuna arrestata fuq suspett raġunevoli li għamlet reat, jew, bla hsara għad-dispożizzjonijiet ta' l-artikolu 214 li tkun mfittxija mill-Pulizija għal dak ir-reat.

(2) Il-Pulizija ma tistax tohroġ lill-istampa, kemm direttament kif ukoll indirettament, xi tagħrif dwar l-identità tal-persuna li tkun se titressaq quddiem il-qrati, jew dwar xi nvestigazzjoni *in situ* li għandha x'taqsam ma' xi suspettat.

*Koperazzjoni mal-pubbliku*

214. B'dak kollu li jingħad fid-dispożizzjonijiet ta' l-artikolu preċedenti, il-Pulizija tista' tohroġ twissijiet fuq xi persuna li għadha libera u li tagħha nies oħra jistghu jisfaw vittma, fejn jingħataw biżżejjed dettalji għall-identifikazzjoni ta' dik il-persuna u tal-mod ta' mġieba jew operat tiegħu.

*Reat kontra d-dixxiplina*

215. Ksur ta' l-artikolu 213 ta' dan il-Kodiċi jitqies bhala reat kontra d-dixxiplina.

## TAQSIMA IX

### RECORDS TAL-PULIZIJA

*Reġistrazzjoni ta' sejbiet ta' htija*

216. (1) Għandu jkompli jkun hemm Uffiċċju Ċentrali ta' *Records* fil-Kwartieri Ġenerali tal-Pulizija għall-iskrizzjoni u reġistrazzjoni ta' sejbiet ta' htija.

(2) Is-sejbiet ta' htija li minn issa 'l quddiem għandhom jiġu reġistrati huma dawn li ġejjin:

(a) meta l-persuna tingħata priġunerija jew detenzjoni;

(b) meta l-eżekuzzjoni ta' sentenza ta' priġunerija jew detenzjoni kienet sospiża, jew mill-Qorti jew bil-Prerogattiva ta' Maħfra skond il-Kostituzzjoni;

- (ċ) meta persuna tkun marbuta skond il-Kapitolu 152;
- (d) kull reat li minhabba fih ġiet sospiża jew revokata xi liċenzja;
- (e) kull reat kontra l-Ordinanza tad-Dwana;
- (f) kull reat li ghalih il-Qorti taghti multa minflok ordni ta' kustodja.

#### *Reġistrazzjoni ta' reati*

217. (1) Ir-reġistrazzjoni tista' ssir b'referenza ghat-titolu tar-reat u d-data li sar fiha, ghall-Qorti li tkun tat is-sentenza (b'indikazzjoni ta' l-Awla jew ta' l-Imhalled tal-Qorti Kriminali), iż-żmien tas-sentenza ta' kustodja jew xi ordni iehor tal-Qorti.

(2) Ir-reġistrazzjoni ghandha ssir bin-numru tal-karta ta' l-identità tal-persuna misjuba hatja, jew tal-passaport tiegħu fil-każ li ma jkunx ċittadin Malti, flimkien ma' dawk d-dettalji ohra li jistghu jkunu mehtieġa biex tiġi stabbilita l-identità tiegħu.

#### *Reġistrazzjoni ta' deċiżjonijiet żgħar*

218. Meta persuna tkun persistentement miġjuba quddiem il-Qrati fuq reati żgħar, il-Pulizija tista' tirreġistra u żżomm fuq livell lokali jew ta' fergħa dawk ir-records ta' sejbiet ta' htija, li jinġiebu fil-Qorti, jekk tinħass il-htieġa jew il-Pulizija tqis li għandhom jiġbdu l-attenzjoni tal-Qorti fuq dawn is-sejbiet ta' htija ripetuti.

#### *Kordinazzjoni ta' "probations", eċċ.*

219. (1) L-Uffiċċju Ċentrali tar-Records ghandu jiehu nota tal-ewwel talba ta' uffiċċjal prosekutur li ssir għar-record kriminali kollu ta' persuna mqegħda taht probation jew sentenza sospiża, u għandu jiehu nota ta' l-isem ta' l-uffiċċjal tal-Pulizija li jkun għamel l-ewwel talba.

(2) Sabiex tiġi evitata l-possibbiltà ta' applikazzjoni doppja ta' probation jew sentenza sospiża, fuq talba sussegwenti ta' xi uffiċċjal tal-Pulizija iehor, għandu jinġiebu għall-attenzjoni tiegħu l-fatt li saret talba ohra qabel, filwaqt li jinġhatalu l-isem ta' l-uffiċċjal l-iehor, u dawn il-fatti meta jinħareġ it-tieni record jew iehor sussegwenti, għandhom jitniżżlu fuqu.

#### *Għoti lura ta' marki tas-swaba' eċċ.*

220. Kull persuna li tiġi liberata b'sentenza finali ta' qorti, tista', fi żmien sena mid-data ta' dik il-liberazzjoni, titlob li l-kampjuni, marki tas-swaba u dokumenti kollha mehuda minn għandha u kull reġistrazzjoni tal-vuċi tiegħu jew ritratti jew reġistrazzjonijiet bil-video tiegħu jiġu mogħtija lura lilu jew meqruda fil-preżenza tiegħu.

*Talba għall-ghoti lura*

221. (1) It-talba msemmija fl-artikolu 220 għandha ssir lil Maġistrat Inkwirenti b'rikors.

(2) Il-Maġistrat Inkwirenti, jekk jilqa' t-talba, għandu jiżgura li l-kopji kollha jkunu hekk mogħtija lura jew meqruđa fil-preżenza tiegħu.

(3) Il-Maġistrat Inkwirenti jista' jittardja l-ghoti lura jew il-qerda ta' dan il-materjal jekk ikun meħtieġ dwar xi investigazzjoni oħra.

*Talba ta' persuna arrestata*

222. Persuna li kienet arrestata imma li ma għietx imharrka tista' wkoll tagħmel rikors skond l-artikoli ta' qabel. F'dan il-każ ir-rikors jista' biss ikun milqugħ wara li jkun ġie notifikat lill-uffiċjal investigatur, li għandu d-dritt li jirrispondi dak ir-rikors, u kemm-il darba il-perijodu ta' preskrizzjoni għall-eżerċizzju ta' l-azzjoni kriminali li japplika għar-reat investigat ma jkunx skeda.

*X'isir b'kampjuni li ma jintalbu lura*

223. Meta l-persuna liberata ma tagħmilx rikors kif imsemmi fl-artikolu 220, il-Pulizija tista' titrasferixxi kull haġa hemmhekk imsemmija lill-Akkademja tal-Pulizija, mwaqqfa taħt dan il-Kodiċi, jekk dak il-materjal ikollu valur didattiku jew esperimentali.

*Arkivji tal-Pulizija*

224. Il-Pulizija tista' żżomm, tipproċessa u tikklassifika kull tagħrif, konservat minn sistema tkun liema tkun, inklużi *computer databases*, rilevanti għall-ghemil ta' reati, kemm f'Malta kif ukoll barra minn Malta.

*Estensjoni ta' Tagħrif*

225. Dak it-tagħrif jista' jkollu x'jaqsam ma' marki tas-swaba, ritratti, qisien, kampjuni tad-dem, jew kampjuni intimi u mhux intimi, mudelli ta' mġieba kriminali u metodoloġija fl-ghemil ta' reat u dettalji simili għal skopijiet ta' identifikazzjoni futura ta' hatjin.

*Tqabbil*

226. Il-Pulizija tista' tqabbel kull tagħrif bħal dak biex tistabbilixxi provi f'xi investigazzjoni.

*Koperazzjoni internazzjonali*

227. Il-Pulizija hi awtorizzata li tikkopera ma' xi korp pubbliku investigattiv ta' pajjiż iehor kemm direttament kif ukoll permezz ta' organizazzjonijiet ta' pulizija reġjonali jew internazzjonali.

*Użu illegali ta' taghrif*

228. L-użu ta' taghrif għal skop li mhux permess bil-liġi jikkostitwixxi, mingħajr hsara għal xi liġi oħra, reat gravi kontra d-dixxiplina.

**TAQSIMA X****PROGRAMM TA' PROTEZZJONI TA' XHIEDA***Protezzjoni ta' xhieda*

229. Għall-finijiet tal-ġlieda u prosekuzzjoni tal-kriminalità organizzata kemm lokali kif ukoll barranija jew reati li mod iehor jibqgħu mhux puniti, li dwarhom ix-xiehda ta' persuna li tkun hadet sehem f'dak ir-reat tkun indispensabbli, il-Kummissarju jista' jwaqqaf programm ta' protezzjoni ta' xhieda, minn issa 'l quddiem imsejjah "il-programm".

*Jedd għall-programm*

230. Persuna tista' tikseb il-jedd li tibbenefika taht il-programm jekk —

(a) tkun hadet sehem f'organizzazzjoni jew grupp ta' nies li jkunu għamlu jew huma organizzati biex jagħmlu xi delitt; jew

(b) tkun hadet sehem fl-għemil ta' delitt li hu punnibli fil-massimu b'mhux anqas minn seba' snin habs;

u tagħti lill-Pulizija taghrif biżżejjed li jiggarrantixxi probabbiltà raġunevoli li nies oħra li kellhom sehem fid-delitt jinstabu hatja, meta dawn eventwalment jitressqu quddiem qorti.

*Applikabbiltà tal-programm*

231. Il-programm għandu japplika biss għal dawk li jiddikjaraw li jkunu se jixhdu waqt il-proċess u kull beneficiċju li jingħata jintilef jekk ix-xhud jirrifjuta li jixhed.

*Xiehda viva voce*

232. B'dak kollu li jingħad fid-dispożizzjonijiet ta' xi liġi oħra, biex tiġi mharsa persuna taht il-programm, dik il-persuna tista' tithalla tagħti xiehda viva

*voce* waqt il-proċess permezz ta' trasmissjoni televiżiva kontemporaneja, taht dawk ir-regoli li jistghu jkunu preskritti.

#### *Rakkomandazzjoni għal applikazzjoni*

233. (1) Il-Kummissarju għandu, meta jkun qiegħed jiddeċiedi jekk jirrakkomandax l-applikazzjoni tal-programm, jqis jekk ix-xhud jipprovdux provi indipendenti u relevanti ċirkostanzjali, diretti jew dokumentali, li jikkoroboraw il-verżjoni tiegħu.

(2) Meta l-Kummissarju jkun tal-fehma li l-programm hu applikabbli għal xi xhud, għandu jagħmel talba bil-miktub lill-Avukat Ġenerali, liema talba għandha tagħti r-raġunijiet għaliex saret flimkien mad-dokumenti relevanti.

(3) L-Avukat Ġenerali għandu jiddeċiedi fuq din it-talba skond il-gudizzju individwali tiegħu fl-eżerċizzju tal-funzjonijiet tiegħu, u din id-deċiżjoni ma tista' bl-ebda mod tiġi kontestata f'xi qorti u jekk japprova, ix-xhud għandu jitqies xhud protett taht il-programm.

#### *Sospensjoni ta' proċedimenti kriminali*

234. Xhud protett ma jistax ikun soġġett għal proċedimenti kriminali fuq l-istess fatti, qabel il-proċedimenti li xehed fihom jsiru *res judicata*.

#### *Sospensjoni ta' preskrizzjoni*

235. Iż-żmien tal-preskrizzjoni għall-azzjoni kriminali kontra ix-xhud protett għandu jiġi sospiż mid-data tad-deċiżjoni ta' l-Avukat Ġenerali li x-xhud għandu jitqies xhud protett sakemm il-każ li għandu jixhed fih isir *res judicata*.

#### *Arrest preventiv*

236. B'dak kollu li jingħad fid-dispożizzjonijiet ta' l-artikolu ta' qabel, iż-żmien li x-xhud protett jagħmel f'kustodja protettiva sa meta tingħata s-sentenza kontra tiegħu għandu jgħodd bħala parti minn kull sentenza ta' prigunerija jew detenzjoni mogħtija lilu b'sentenza kontra tiegħu, kemm-il darba huwa jżomm l-istat ta' xhud protett sakemm tingħata s-sentenza fil-każ kontra tiegħu.

#### *Protezzjoni taht il-programm*

237. Il-programm jista' jipprovdi għal dik il-protezzjoni tal-hajja u proprjetà tax-xhud u tal-familja tiegħu fil-linja axxendentali jew dixxendentali jew kollaterali, kif il-Kummissarju jista' jqis xieraq u jista' jipprovdi għal remunerazzjoni regolari f'każijiet partikolari.

*Ftehim ma' pajjiżi barranin*

238. Il-Ministru responsabbli għall-Pulizija jista' jagħmel dak il-ftehim ma' xi gvern barrani biex jipprovdi għajna, fuq bażi reċiproka, għal programm ta' protezzjoni ta' xhieda, u biex itejjeb il-possibiltajiet li tinghata protezzjoni akbar lil xhud bi trasferiment tiegħu f'pajjiż iehor, u biex ikunu riċevuti xhieda protetti, taht programmi simili minn pajjiżi oħra.

*Revoka ta' l-istat ta' xhud protett*

239. (1) L-Avukat Ġenerali jista' f'kull żmien, kemm *ex officio* kif ukoll fuq talba tal-Kummissarju, jirrevoka l-istat ta' xhud protett taht il-programm, meta jirriżulta li x-xhud mhux qieghed ihares il-kundizzjonijiet tal-programm, jew li x-xhieda jew verżjoni tal-fatti tiegħu jew xi ċirkustanzi indikati minnu bhala xhieda korroboranti, huma manifestament foloz.

(2) Bl-istess mod xhud jitlef l-istat tiegħu ta' xhud protett jekk jagħmel jew ikun hemm suspett raġunevoli li għamel, xi delitt iehor, li ma jkunx ta' natura involontarja, waqt il-perijodu li jkun taht il-programm, liema delitt hu punibbli b'aktar minn tliet snin prigunerija fil-massimu tiegħu.

*Talbiet lill-Avukat Ġenerali jew lil xi persuni ta' awtorità*

240. Talba minn peżsuna biex titqies bhala xhud protett tista' ssir lill-Avukat Ġenerali, jew lil xi persuna oħra ta' awtorità li għandhom jgħadduha lill-Kummissarju tal-Pulizija. L-Avukat Ġenerali jew persuna oħra ta' awtorità ma jistgħux jingiebu bhala xhieda kontra l-persuna li titlob il-programm, jew biex tingieb prova li saret din it-talba minnha.

*Applikabilità tal-benefiċċji*

241. Il-benefiċċji msemmija f'dan il-Kodiċi jew f'xi regolamenti magħmulin tahtu ma japplikawx għal persuna li jirriżulta li tkun il-kap ta' organizzazzjoni jew grupp kriminali, jew l-instigatur jew benefiċjarju ewlieni tad-delitt.

*Estensjoni għal xhieda ordinarji*

242. (1) Programm ta' protezzjoni ta' xhieda jista' jiġi applikat ukoll għal xhud f'kull proċedimenti kriminali dwar delitt kif imsemmi fl-artikolu 230 u li bl-ebda mod ma jkun ha sehem f'dak id-delitt.

(2) Jistgħu jsiru regolamenti biex jagħtu protezzjoni akbar għas-sigurtà personali, sens ta' modestà u sigurtà psikoloġika ta' minuri, vittmi ta' reati sesswali u xhieda oħra, li jistgħu, minhabba ċirkostanzi speċjali, jehtiegu din il-protezzjoni.

## TAQSIMA XI

## L-AKKADEMJA TAL-PULIZIJA

*Statut*

243. Qieghda tiġi hawnhekk imwaqqfa l-Akkademja tal-Pulizija, minn issa 'l quddiem imsejha "l-Akkademja", li jkollha personalità ġuridika separata mill-Korp tal-Pulizija ta' Malta.

*Għanijiet*

244. L-għanijiet u l-oġġettivi ta' l-Akkademja għandhom ikunu -

(a) it-taħriġ ta' rekluti, uffiċjali kadetti u uffiċjali tal-pulizija fis-servizz, sabiex iwettqu r-rwol tagħhom fil-Korp tal-Pulizija ta' Malta, b'abbilità, tagħlim u esperjenza, integrità u mparzjalità, effettivament u effiċjentement;

(b) it-trawwim u t-tishih ta' kunċetti ta' professjonalizmu fil-kapaċitajiet tal-pulizija u funzjonijiet operattivi fundamentali u t-taħriġ ta' uffiċjali f'kapaċitajiet maġerjali moderni;

(ċ) biex uffiċjali jkunu jistghu jibdeu jagħmlu studji oħra li huma rilevanti għar-rwol tagħhom fil-Korp, bħal psikoloġija, xjenzi ta' l-imġieba, investigazzjoni xjentifika, ġurisprudenza lokali u barranija, liġi komparattiva, u lingwi.

*Bord*

245. (1) L-Akkademja tkun mmexxija minn Bord magħmul mis-Segretarju Permanenti fil-Ministeru responsabbli għall-Akkademja, jew ir-rappreżentant tiegħu, mill-Kummissarju jew id-delegat tiegħu, mid-Direttur ta' l-Istitut ta' l-Istudji Forensiċi jew id-delegat tiegħu, minn membru mahtur mill-Ministru responsabbli għall-Pulizija, iehor mahtur mill-Ministru responsabbli għall-Gustizzja, minn Maġistrat mahtur mill-Prim Imhallef, mill-Avukat Ġenerali jew id-delegat tiegħu, u minn membru mahtur mill-Fakultà tal-Liġi fl-Università ta' Malta.

(2) Il-Bord jkollu t-tmexxija ġenerali ta' l-Akkademja, tal-*policies* tagħha, l-istabbiliment ta' l-oġġettivi u l-miri tagħha, u s-sorveljanza ta' l-operat tagħha.

(3) L-*Chairman* tal-Bord għandu jkollu r-rappreżentanza ġuridika ta' l-Akkademja.

*Direttur u persunal*

246. (1) L-Akkademja għandha tkun amministrata fil-funzjonijiet tagħha ta' kuljum minn Direttur li għandu jinhatar mill-Ministru responsabbli għall-Pulizija taht dawk il-kundizzjonijiet li jistghu jiġu stabbiliti.

(2) Il-persunal akkademiku, kemm *full-time* kif ukoll *part-time* fuq bażi regolari, għandu jinhatar l-ewwel nett wara sejha għall-applikazzjonijiet u għażla eventwali mill-Bord, jew sussegwentement b'nomina mill-Bord.

(3) Id-Direttur ikun responsabbli għat-twaqqif tal-korsijiet u *curricula* ta' l-Akkademja, u jista' jqabba *lecturers* f' suġġetti speċifiċi, liema hatra ma tistax tkun għal aktar minn tliet *lectures* f' xi sena partikolari.

(4) Id-Direttur ikun responsabbli għall-persunal mhux akkademiku, għall-amministrazzjoni ta' kuljum tal-finanzi ta' l-Akkademja u għal hwejjeg amministrattivi oħra.

(5) Id-Direttur ikun responsabbli ukoll għall-organizzazzjoni ta' dawk *is-seminars*, *lectures* pubbliċi u diskussjonijiet, li jistgħu jippromovu l-operat ahjar tal-Korp u biex jinfirx it-tagħrif korrett fost il-pubbliku dwar is-sistema tal-gustizzja.

## TAQSIMA XII

### ASSOĊJAZZJONIJIET PROFESSJONALI

#### *Dritt ta' assoċjazzjoni*

247. (1) L-uffiċjali tal-Pulizija jistgħu jwaqqfu l-assoċjazzjoni jew assoċjazzjonijiet professjonali tagħhom.

(2) Assoċjazzjoni professjonali tista' tkun mwaqqfa għall-avanzament tal-gid u effiċjenza professjonali tal-membri ta' dik l-assoċjazzjoni, inklużi hwejjeg li għandhom x'jaqsmu ma' sigħat ta' xogħol, vaganzi, paga u *allowances*, pensjonijiet u kundizzjonijiet oħra ta' xogħol u normi ta' dixxiplina ġenerali, u għad-difiża ta' ndividwi fi proċedimenti dixxiplinari.

(3) F'ebda każ, ma jistgħu jitwaqqfu aktar minn żewġ assoċjazzjonijiet professjonali, wahda għall-grad superjuri, jiġifieri mill-grad ta' spettur 'l fuq, u l-oħra għall-grad l-oħrajn kollha.

#### *Shubija Volontarja*

248. (1) Shubija f'assoċjazzjoni hi volontarja.

(2) Ebda persuna ma tista' tkun membru ta' assoċjazzjoni bħal dik jekk ma tkunx membru tal-Korp.

(3) B'dak kollu li jinghad fis-subartikolu (2) ta' hawn fuq, assoċjazzjoni tista' tqabba impjegati jew konsulenti minn barra il-Korp.

#### *Korpi indipendenti*

249. Kull assoċjazzjoni u kull kumitat jew bord ta' l-istess ghandhom ikunu ghal kollox indipendenti minn u mhux assoċjati ma' xi korp barra mis-servizz tal-pulizija:

Iżda ma ghandu jkun hemm xejn li jzomm l-assoċjazzjoni milli tingħaqad ma' xi organizzazzjoni internazzjonali ta' korpi tal-pulizija simili, jew li tikkollabora ma' xi assoċjazzjoni f'Malta li l-membri tagħha huma membri rtirati tal-Korp.

#### *Reġistrazzjoni*

250. Ir-reġistrazzjoni ta' assoċjazzjoni professjonali ghandha ssir mal-Kummissarju, li ma jistax jichad din ir-reġistrazzjoni, kemm-il darba l-istatut tagħha ma' jmurx kontra dan il-Kodiċi u l-assoċjazzjoni tirrapreżenta mhux inqas minn tletin fil-mija tal-Korp kollu, jew ħamsin fil-mija u wieħed mill-membri ta' wahda mill-kategoriji msemmija fis-subartikolu (3) tal-artikolu 247 ta' dan il-Kodiċi.

#### *Assoċjazzjoni tal-Pulizija ta' Malta*

251. Sakemm ma titwaqqafx assoċjazzjoni ohra, l-Assoċjazzjoni tal-Pulizija ta' Malta ghandha tkompli tkun stabbilita skond l-Istatut li jidher fil-Hames Skeda.

#### *Sostituzzjoni ta' l-Iskeda*

252. (1) L-Assoċjazzjoni tal-Pulizija ta' Malta tista' tissostitwixxi l-istatut tagħha stess minflok dak li hemm fl-Iskeda, liema statut ghandu jingħata lill-Kummissarju għall-approvazzjoni li hu konformi ma' dan il-Kodiċi, u wara jitqiegħed għall-vot tal-membri ta' l-assoċjazzjoni, li ghandha tiddetermina dawk l-emendi jew sostituzzjoni bil-maġġoranza tal-membri tagħha.

(2) Meta l-Istatut jinkiteb mill-ġdid jew jiġi emendat, l-Istatut li jinsab fil-Hames Skeda jitqies li jkun hekk sostitut jew emendat.

#### *Miżati ta' assoċjazzjoni u drittijiet*

253. (1) Il-Kummissarju ghandu jkompli jzomm il-miżati kif stabbilit fl-Avviz Legali 14 ta' l-1960 mis-salarju ta' uffiċjal tal-Pulizija bhala l-miżata tas-

shubija tieghu fl-Assoċjazzjoni sa dak iż-żmien li membru b'ittra miktuba minnu jgharraf li rriżenja minn membru tal-Assoċjazzjoni.

(2) Il-Kummissarju jista', skond il-htigiet tas-servizz, jqis li xi xoghol magħmul minn uffiċjal tal-Pulizija li ghandu x'jaqsam ma' assoċjazzjoni professjonali huwa parti mid-dmirijiet tieghu bhala Pulizija.

### TAQSIMA XIII

#### PENSJONIJIET

##### *Il-Ministru jagħmel regolamenti dwar pensjonijiet*

254. (1) Il-Ministru responsabbli għall-Pulizija, bi ftehim mal-Ministru responsabbli għall-Finanzi, jista' jagħmel u meta jagħmel, ibiddel u jhassar regolamenti dwar l-ghoti ta' pensjonijiet lil persuni li kienu fis-servizz tal-Korp tal-Pulizija jew lir-rappreżentanti legali jew dipendenti tagħhom:

Izda sakemm ma jiġux imbidla jew imhassra bis-sahha ta' dawn ir-regolamenti, isehhu r-regolamenti li hawn fis-Sitt Skeda ma' dan il-Kodiċi.

(2) Ir-regolamenti kollha li jsiru bis-sahha ta' dan l-artikolu jista' jkollhom effett retrospettiv sabiex jikkonferixxu benefiċċju lil, jew inehhu xi disabilità li persuna jew klassi ta' persuni jista' jkollhom.

(3) Ebda regolament magħmul taht dan l-artikolu ma ghandu jkollu effett kemm-il darba ma jkunx irċieva minn qabel l-approvazzjoni tal-Kamra tad-Deputati mgharrfa b'riżoluzzjoni.

(4) Kull pensjoni mogħtija taht dan il-Kodiċi ghandha tingħadd skond id-dispożizzjonijiet fis-sehh f'dak il-jum li fih l-uffiċjal jirtira.

##### *Il-pensjonijiet jithallsu minn fuq ir-renti ta' Malta*

255. Dawk is-somom kollha illi minn żmien għal żmien jiġu assenjati bhala pensjoni taht dan il-Kodiċi għandhom jitqieghdu għad-debitu tal-Fond Konsolidat u għandhom jithallsu minnu.

##### *Ċirkostanzi li fihom il-pensjoni tista' tingħata*

256. Ebda pensjoni ma tingħata lil ebda uffiċjal tal-Pulizija hlief meta jirtira mill-Korp f'wiehed mill-każijiet li ġejjin —

(a) meta jew wara li jagħlaq l-età ta' hamsa u hamsin sena, jew jekk ikun għalaq hamsa u għoxrin sena servizz fil-Korp;

- (b) meta titneħha l-kariga tieghu;
- (ċ) meta jiġi rtirat bil-fors halli jagħti lok issir aħjar l-organizzazzjoni tal-Korp, biex b'hekk ikun hemm effiċjenza u ekonomija akbar;
- (d) fil-każ ta' tmiem ta' impieg fl-interess pubbliku kif maħsub f'dan il-Kodiċi;
- (e) fuq prova medika ta' sodisfazzjoni tal-Prim Ministru illi dak l-uffiċjal tal-Pulizija mhux kapaċi minħabba mard tal-moħħ jew tal-ġisem li jeseġwixxi d-dmirijiet tal-kariga tieghu u li din il-marda aktarx hija permanenti.

*Irtir minħabba nteress pubbliku*

257. Meta servizz ta' uffiċjal tal-Pulizija jiġi mitmum minħabba f'dak li hemm imsemimi fil-paragrafu (iii) ta' l-artikolu 20 ta' dan il-Kodiċi u pensjoni ma tkunx tista' tingħata xort'ohra skond id-dispożizzjonijiet ta' dan il-Kodiċi, dak l-uffiċjal tal-Pulizija jista' jingħata pensjoni li ma tkunx iżjed minn dak l-ammont li għalih kien ikun eliġibbli kieku rtira mill-Korp fiċ-ċirkostanzi msemmijin fil-paragrafu (e) ta' l-artikolu 256 ta' dan il-Kodiċi.

*Massimu ta' pensjoni li jista' jingħata*

258. (1) Il-pensjoni mogħtija lil uffiċjal tal-Pulizija taħt dan il-Kodiċi ma tistax tkun iżjed minn żewġ terzi ta' l-oghla hlas pensjonabbli li f'kull żmien li jkun kien idahħal matul is-servizz tieghu fil-Korp.

(2) Għall-finijiet tas-subartikolu ta' qabel dan, ma jitteħidtx qies ta' pensjoni addizzjonali mogħtija lil uffiċjal minħabba li tkun ġratlu hsara fil-persuna; iżda, meta tingħata lil uffiċjal tal-Pulizija din il-pensjoni addizzjonali, l-ammont li huwa jista' jieħu ta' din il-pensjoni addizzjonali ma jistax jaqbeż is-sest ta' l-oghla hlas pensjonabbli tieghu f'kull żmien li jkun matul is-servizz tieghu fil-Korp b'aktar milli bis-somma li biha l-pensjoni jew pensjonijiet tieghu, apparti minn dik il-pensjoni addizzjonali, ikun anqas minn żewġ terzi ta' dak l-oghla hlas pensjonabbli.

(3) Għall-finijiet ta' din it-Taqsima ta' dan il-Kodiċi u r-regolamenti magħmulin bis-saħħa tagħha:

“xahar” tfisser xahar skond il-kalendarju;

“hlas pensjonabbli” jidhlu fiha —

- (i) is-salarju
- (ii) l-allowance personali,

iżda ma jidhlux fih l-*allowance* ghal xi servizz, l-*allowance* ghat-trattament, l-*allowance* ghall-kera, il-valur tal-kera frank kif stmat fis-sena, il-valur tar-razzjoni, ir-rimunerazzjoni *extra*, u kull dritt imhallas mit-Teżor bhala salarju jew kull xorta ta' hlasijiet ohra;

“*allowance* personali” tfisser żieda speċjali moghtija personalment lid-detentur tal-kariga ghal dak iż-żmien, iżda ma tinkludix dik iż-żieda jekk tkun moghtija bhala sugġetta ghall-kondizzjoni li ma tkunx pensjonabbli;

“uffiċjal tal-Pulizija” tfisser uffiċjal tal-Pulizija mahtur fil-Korp fil jew wara l-15 ta' Jannar, 1979;

“sena” tfisser sena skond il-kalendarju.

### *Il-pensjonijiet ma jistgħux jiġu ċeduti*

259. Ebda pensjoni moghtija taht dan il-Kodiċi ma tista' tiġi ċeduta jew ittrasferuta jew maqbuda, issekwestrata jew tkun sugġetta ghal atti ġudizzjarji minhabba jew dwar dejn jew jedd iehor, hlief sa fejn ighoddu d-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 381 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

### *Pensjoni tkun imnaqqa f'ċerti ċirkostanzi*

260. (1) Uffiċjal tal-Pulizija li jirtira ghal raġunijiet elenkati fil-paragrafu (e) ta' l-artikolu 256 ta' dan il-Kodiċi li tkun inghatalu pensjoni taht din l-Ordinanza u li jkun qed jirċievi —

(a) xi rimunerazzjoni dwar xi impieg, jew xi servizzi moghtija, jew xi kariga miżmuma; jew

(b) xi dhul li jkun ġej mill-eżerċizzju ta' kummerċ, negozju, professjoni jew vokazzjoni; jew

(ċ) xi dhul li jkun ġej minn xi pensjoni, *allowance* jew hlas iehor dwar xi impieg, servizz jew kariga kif intqal qabel,

ikollu, sakemm jilhaq l-età ta' hamsa u hamsin sena, jew sal-hamsa u ghoxrin anniversarju ta' l-ewwel hatra tieghu fil-Korp, skond liema jiġi l-ewwel, il-pensjoni tieghu mnaqqa bl-ammont li bih id-dhul totali stabbilit skond id-dispożizzjonijiet li ġejjin ta' dan l-artikolu jkun iżjed mis-salarju li f'dak iż-żmien jithallas dwar il-

kariga miżmuma minn dak l-uffiċjal meta rtira, billi jitqiesu biss, jekk dak is-salarju jkun b'żidiet inkriminali, dawk iż-żidiet korrispondenti li jkunu ttiehdu qabel dak l-irtir, jew, jekk dak il-post ikun ġie abolit, dwar post analogu:

Iżda l-pensjoni fis-sena ma ghandha f'ebda każ titnaqqas ghal anqas mis-somma ta' hamsin lira u jekk il-pensjoni jew *allowance* ohra fis-sena ma tkunx iżjed mill-iżgħar somma li ghandha tithallas kif inghad qabel ebda tnaqqis ma ghandu jsir minnha.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, id-dhul totali għandu jiġi stabbilit billi jingħaddu flimkien —

(a) il-pensjoni li kienet tiġi riċevuta taht dan il-Kodiċi, kieku ma kienx ghad-dispożizzjonijiet ta' dan l-artikolu; u

(b) kull rimunerazzjoni jew dhul kif imsemmi fil-paragrafu (a), (b) jew (ċ) tas-subartikolu (1) ta' dan l-artikolu, jew dawk ir-rimunerazzjoni u dhul flimkien, u

billi jitnaqqsu minnhom is-somma ta' hamsin lira fis-sena.

(3) Kull tnaqqis fil-pensjoni taht is-subartikolu (1) ta' dan l-artikolu għandu jiġi kalkolat fuq il-bażi tal-pensjoni, ir-rimunerazzjoni jew *income* iehor, u s-salarju, li għandhom jiġu riċevuti matul perijodu ta' tnaqqis il-xahar li jispicċa fil-31 ta' Diċembru, iżda bla hsara għal kull aġġustament li, jista' jkun jew li jista' jsir mehtieġ għal xi raġuni tkun li tkun, u safejn ikun prattikabbli, għandu jsir mill-hlasijiet ta' kull xahar jew hlasijiet ohra perjodiċi tal-pensjoni.

(4) Kull uffiċjal li għalih japplika s-subartikolu (1) ta' dan l-artikolu għandu minghajr dewmien igharraf lill-*Accountant General* u jzomm mgharraf f'kull żmien, biċ-ċirkostanzi kollha li jagħmlu l-imsemmi subartikolu (1) applikabbli għalih u l-limiti safejn huma hekk applikabbli, u b'kull tibdil fiċ-ċirkostanzi jew fl-imsemmija limiti, u għandu jagħti lill-*Accountant General*, meta jkun mitlub it-tagħrif kollu rilevanti; u jekk dak l-uffiċjal jonqos li jhars xi waħda mid-dispożizzjonijiet ta' dan is-subartikolu, kull pensjoni li għaliha huwa jista' jkollu dritt tieqaf minnufih:

Iżda jekk tinghata raġuni tajba, il-pensjoni jew l-*allowance* l-ohra tista' terġa' tinghata b'effett retroattiv jew minghajru, mill-Prim Ministru.

## TAQSIMA XIV

## REGOLAMENTI U ORDNIJJIET

*Il-Ministru jista' jagħmel regolamenti*

261. (1) Il-Ministru responsabbli għall-Pulizija jew il-Ministru responsabbli għall-ġustizzja, kif ikun il-każ, jista' jagħmel regolamenti għat-twettiq aħjar tad-dispożizzjonijiet ta' dan il-Kodiċi u għat-tmexxija ġenerali tal-Korp, u bla hsara għall-ġeneralità ta' dan li nqad qabel, b'mod partikolari dwar kull haġa li l-Kummissarju hu awtorizzat li jirregola b'ordnijiet permanenti, u meta regolamenti hekk isiru, dawn jipprevalu fuq kull ordnijiet permanenti magħmula jew li għandhom jsiru mill-Kummissarju.

(2) Id-dispożizzjonijiet li hemm fl-Iskedi li jinsabu ma' dan il-Kodiċi jistgħu jiġu mibdula jew imhassra b'regolamenti magħmula mill-Ministru responsabbli għall-Pulizija skond dan l-artikolu.

*Il-Kummissarju jista' jagħmel ordnijiet permanenti*

262. Il-Kummissarju jista', bla hsara għad-dispożizzjonijiet ta' dan il-Kodiċi u għal kull regolamenti magħmula mill-Ministru responsabbli għall-Pulizija, minn żmien għal żmien jagħmel ordnijiet permanenti għat-tmexxija ġenerali ta' l-uffiċjali tal-Pulizija dwar vaganzi, kondizzjonijiet ta' servizz, trasferiment (magħduda spejjeż dwar hekk), tahrig, armi u *accoutrements*, hwejjeġ u tagħmir, postijiet ta' residenza, klassifikazzjoni u dmirijiet tagħhom kif ukoll dwar id-distribuzzjoni u spezzjon tagħhom, u daww l-ordnijiet l-oħra li jidhirlu spedjenti biex tiġi evitata negliġenza u biex titmexxa 'l quddiem l-effiċjenza u d-dixxiplina minn naħa ta' l-uffiċjali tal-Pulizija fil-qadi tad-dmirijiet tagħhom.

*Formoli*

263. Il-Kummissarju jista' wkoll jipprovdi għall-formoli jew proċeduri li jistgħu jkun meħtieġa minn jew skond dan il-Kodiċi.

## TAQSIMA XV

## MIXXELANJI

*Kummissjoni dwar is-Servizz Pubbliku*

264. Bla hsara ghal kull delega ta' setghat kif imsemmija fl-artikolu 110 tal-Kostituzzjoni ta' Malta fl-eżerċizzju tas-setghat moghtija lilu bl-artikoli 19 (barra mis-subartikolu (3)) u 20 ta' dan il-Kodiċi, il-Prim Ministru ghandu jaġixxi fuq ir-rakkomandazzjoni tal-Kummissjoni dwar is-Servizz Pubbliku.

*Kontinwazzjoni ta' servizz*

265. Il-persuni kollha li fid-data tal-bidu fis-sehh ta' dan il-Kodiċi jkunu jservu bhala uffiċjali tal-Pulizija ghandhom jitqiesu li jkunu mahtura skond dan il-Kodiċi:

Iżda għall-finijiet tad-dispożizzjonijiet ta' l-artikolu 18 dawk l-uffiċjali ma jkunux marbuta li jieħdu l-ġurament hemmhekk preskritt sakemm ma jkunux mehtieġa li jagħmlu hekk mill-Kummissarju u sa dak iż-żmien ghandhom jibqgħu marbuta bil-ġurament mehud skond l-Ordinanza dwar il-Pulizija ta' Malta:

Iżda l-Kummissarju ghandu jieħu l-ġurament quddiem il-President mad-dhul fis-sehh ta' dan il-Kodiċi.

*Uffiċċju Ċentrali Nazzjonali ta' l-Interpol*

266. (1) Il-Korp ghandu jkompli jagħmel użu mill-uffiċċju tar-relazzjonijiet internazzjonali tiegħu magħruf bhala l-Aġenzija Nazzjonali Ċentrali Floriana li hu affiljat ma' l-Organizzazzjoni tal-Pulizija Kriminali Internazzjonali – Interpol.

(2) L-Aġenzija Nazzjonali Ċentrali Floriana ghandha tkompli tiżgura u tmexxi 'l quddiem assistenza reċiproka mill-aktar wiesgħa possibbli bejn aġenziji nazzjonali ċentrali barranin fil-limiti tal-liġijiet ta' Malta.

(3) Il-limiti ta' l-azzjonijiet ta' l-Aġenzija Nazzjonali Ċentrali Floriana m'għandhom bl-ebda mod jaqbzū dawk li huma stipulati fil-Kostituzzjoni tal-Organizzazzjoni tal-Pulizija Kriminali Internazzjonali – Interpol.

(4) L-Aġenzija Nazzjonali Ċentrali Floriana ghandha tkompli tmexxi l-investigazzjonijiet u inkjesti f'Malta mitluba minn aġenziji nazzjonali ċentrali barranin kif ukoll tkompli titlob assistenza minn servizzi ta' pulizija barranin simili f'inkjesti u nvestigazzjonijiet li qegħdin jitmexxew lokalment, fuq bażi reċiproka.

*Kuntistabbli tar-riżerva*

267. (1) Il-Korp jista' jimpjega numru ta' kuntistabbli tar-riżerva, li għandhom jitqiesu bhala adattati biex jagħmlu ċertu xogħol limitat tal-pulizija, f'ċirkustanzi speċjali.

(2) Kuntistabbli tar-riżerva għandu jithallas *allowance tax*-xogħol li jkun qed jagħmel.

(3) Kuntistabbli tar-riżerva jkun marbut bl-istess liġi, regolamenti u regoli *mutatis mutandis* li japplikaw għall-uffiċjali tal-Pulizija ordinarji, waqt li jkunu assenjati għal dmir partikolari.

*Il-Banda tal-Pulizija*

268. (1) Il-Korp għandu jzomm Banda mużikali fuq bażi regolari li tista' tintalab li ddoqq fil-pubbliku, ukoll f'okkażjonijiet li m'għandhomx strettament x'jaqsmu ma' ċerimonji li fihom jiehu sehem il-Korp.

(2) Il-Kummissarju jista' jimpjega kuntistabbli ta' riżerva kif provdut f'dan il-Kodiċi, speċifikatament għal dmirijiet mal-Banda tal-Pulizija, meta dan hu meħtieġ biex jkun hemm kumplement shih fil-Banda, u ma jistgħux jintużaw uffiċjali tal-Pulizija regolari.

*Annimali li jintużaw mill-Korp*

269 (1) Il-Korp għandu jkompli jagħmel użu minn annimali fl-għemil ta' ċertu xogħol u f'funzjonijiet ċerimonjali.

(2) Il-Kummissarju għandu jiżgura li l-annimali jkunu trattati bl-aħjar mod possibbli u b'mod kompatibbli man-natura tagħhom, u li ma jkunux suġġetti għal trattament krudili.

(3) Kemm-il darba ma jkunx ta parir mod iehor tabib veterinarju, kull animal li ma jibqax jintuża mill-Korp, għal xi raġuni tkun liema tkun, għandu preferibilment jingħata lil xi persuna jew korp li jista' jkompli jittratta tajjeb lill-animal fl-irtir tiegħu. Il-Korp m'għandux joqtol xi animal sempliċiment għall-fatt li l-ebda persuna addattata ma nstabat immedjatament biex tiehu hsieb dak l-animal.

*Thassir u riżerva*

270. (1) Mad-dhul fis-sehh ta' dan il-Kodiċi, l-Ordinanza dwar il-Pulizija ta' Malta tiġi mhassra.

(2) B'dak kollu li hemm fid-dispożizzjonijiet fis-subartikolu (1) ta' dan l-artikolu, kull regolament, regola, ordni permanenti u ċirkulari magħmula taht l-Ordinanza dwar il-Pulizija ta' Malta jibqgħu fis-sehh daqslikieku saru taht dan il-Kodiċi, sakemm ma jkunux mhassra, revokati jew sostituti.

(3) Mad-dhul fis-sehh ta' dan il-Kodiċi l-Att dwar is-Servizzi ta' Sigurtà jiġi mhassar.

(4) Ebda haġa magħmula taht il-liġijiet mhassra b'dan l-artikolu ma titqies li tikser il-liġi għalkemm l-effett jew l-eżekuzzjoni ta' dik il-haġa magħmula tippersisti wkoll wara t-thassir ta' dik il-liġi.

## L-EWWEL SKEDA

(Artikolu 18)

### **Ġurament tal-kariga tal-Kummissarju/Uffiċjali tal-Pulizija**

“Jiena \_\_\_\_\_ solennement nahlef/niddikjara li nkun tassew fidili u leali lejn il-poplu u r-Repubblika ta' Malta u l-Kostituzzjoni tagħha u li naqdi fedelment l-imsemmija Repubblika matul is-servizz tiegħi fil-Korp tal-Pulizija ta' Malta; bhala Kummissarju/Uffiċjal tal-Pulizija li nissogġetta ruhi għall-Kodiċijiet, Atti, Ordinanze, ordnijiet u regolamenti kollha dwar l-istess Korp li hemm fis-sehh u li jistgħu minn żmien għal żmien ikunu fis-sehh u naqdi d-dmirijiet kollha ta' Kummissarju/Uffiċjal tal-Pulizija skond il-liġi, minghajr biża' jew favur, ġibda jew mibgheda. (Hekk Alla jghini).”

## IT-TIENI SKEDA

(Artikolu 28)

### **Reati kontra d-Dixxiplina**

*Kondotta ta' telf ta' reputazzjoni*

I. Kondotta ta' telf ta' reputazzjoni, jiġifieri jekk membru tal-Korp —

(a) juża xi kliem, għemil, jew ġesti li jingurjaw, jinsulentaw jew imaqdru lill-President ta' Malta jew lill-Gvern ta' Malta jew lil xi persuna mpjegata jew li jkollha x'taqsam ma' l-amministrazzjoni tal-Gvern ta' Malta; jew

(b) jakkuża b'imġieba hażina fl-amministrazzjoni tal-Gvern lil xi persuna impjegata fl-amministrazzjoni tal-Gvern; jew

(ċ) bi kliem jew xort'ohra jesprimi tmaqdir tal-Kummissarju, jew ta' l-amministrazzjoni tal-Korp, jew juża xi kliem jew frazi meqjusa jew li jkollha tendenza li ġġib lill-Kummissarju jew lill-amministrazzjoni tal-Korp f'mibgheda, disprezz jew ridikulagħni; jew

(d) jaġixxi jew johroġ ordnijiet, jew iġieghel jew ixewwex lil xi hadd biex jaġixxi, kontra xi ordnijiet jew direttivi mahruġa minn żmien għal żmien mill-Kummissarju, jew mill-Kwartieri tal-Pulizija f'isem il-Kummissarju; jew

(e) jgħid jew jikteb xi haġa meqjusa jew li jkollha tendenza li ġġib diżaffezzjoni fost xi membri tal-Korp jew b'kull mod ihabrek jew iġieghel, jew jittanta li jhabrek jew li jġieghel, jew li jagħmel jew li tiġi magħmula, xi haġa hekk meqjusa jew li jkollha dik it-tendenza; jew

(f) ihajjar jew jittanta li jhajjar, jew jagħmel xi att, meqjus jew li jkollu tendenza li jhajjar lil xi membru tal-Korp li ma jagħtix is-servizz tiegħu jew li jagħmel xi ksur ta' dixxiplina; jew

(g) jaġixxi b'mod diżordinat jew b'xi mod ta' preġudizzju għad-dixxiplina jew li raġunevolment aktarx iġib telf ta' reputazzjoni ta' isem il-Korp jew tas-servizz tal-Pulizija.

### *Kondotta insubordinata jew oppressiva*

2. Kondotta insubordinata jew oppressiva, jiġifieri, jekk membru tal-Korp –

(a) ikun insubordinat bi kliem, att jew imġieba; jew

(b) ikun hati ta' kondotta oppressiva jew tirannika lejn wiehed inferjuri fil-grad; jew

(ċ) juża kliem oxxen, abbużiv jew ingurjuż ma' xi membru tal-Korp; jew

(d) volontarjament jew bi traskuraġni jagħmel xi lment jew dikjarazzjoni falza kontra xi membru tal-Korp; jew

(e) jahbat għal xi membru iehor tal-Korp, meta dan ma jikkostitwix ksur ta' l-artikolu 16 ta' dan il-Kodiċi; jew

(f) b'mod mhux xieraq ma jmexxix xi rapport jew allegazzjoni kontra xi membru tal-Korp.

*Diżubbidjenza ta' ordnijiet*

3. Diżubbidjenza ta' ordnijiet, jiġifieri, jekk membru tal-Korp –

(a) ma jobdix jew minghajr raġuni tajba u xierqa jonqos jew jittraskura milli jeżegwixxi xi ordni leġittimu, bil-miktub jew xort'oħra; jew

(b) jirrisjedi f'post mhux approvat mill-Kummissarju; jew

(c) minghajr il-kunsens bil-quddiem tal-Kummissarju jilqa' persuna alloġġata f'dar jew kwartieri li jkunu provduti lill-mill-Gvern, jew jissulloka xi parti minn dar jew kwartieri bħal dawk; jew

(d) minghajr l-approvazzjoni bil-miktub tal-Kummissarju jirċievi persuna alloġġata f'dar li jirrisjedi fiha u li dwarha huwa jirċievi *allowance* għall-kera, jew jissulloka xi parti minn dar bħal dik; jew

(e) volontarjament jiċhad jew jittraskura milli jhallas xi dejn leġittimu; jew

(f) imexxi jew ikollu x'jaqsam f'xi kummerċ jew negozju, jew xort'oħra jonqos milli jagħti l-hin kollu tiegħu għas-servizz tal-Pulizija.

*Traskuraġni ta' xogħol*

4. Traskuraġni ta' xogħol, jiġifieri, jekk membru tal-Korp –

(a) jittraskura, jew minghajr raġuni tajba u xierqa jonqos, milli minnufih u b'diligenza jattendi jew jeżegwixxi xi haġa li tkun dmir tiegħu bħala membru tal-Korp; jew

(b) jitgħażzen jew jitkellem fieragħ waqt li jkun fuq ix-xogħol; jew

(c) jonqos milli jahdem ir-ronda tiegħu skond ordnijiet jew jitlaq mir-ronda, lok jew post ieħor tad-dmirijiet tiegħu li għalih ikun gie ordnat, minghajr permess kif imiss jew raġuni xierqa; jew

(d) b'negligenza jew traskuraġni jhalli prigunier jaħrab; jew

(e) jonqos, meta jkun jaf fejn jinsab xi hati, milli jirrapporta l-istess, jew milli jagħmel sforz kif imiss biex ikun jista' jitressaq quddiem il-gustizzja; jew

(f) jonqos milli jirrapporta xi haġa li jkun dmir tiegħu li jirrapporta; jew

(g) jonqos milli jirrapporta xi haġa li huwa jkun jaf dwar akkuża kriminali, jew jonqos milli jikxef xi provi li huwa jew xi persuna oħra li huwa jkun jaf biha, jista' jagħmel favur jew kontra xi prigionier jew persuna li tkun taht akkuża kriminali; jew

(h) jonqos milli jagħmel xi iskrizzjoni mehtieġa f'xi dokument jew ktieb uffiċjali; jew

(i) jittraskura, jew minghajr raġuni tajba u xierqa jonqos, milli jeżegwixxi xi istruzzjoni ta' tabib li jkun qed jaġixxi f'isem il-Kummissarju jew it-Tabib Prinċipali tal-Gvern, jew, waqt li jkun assenti mix-xogħol minhabba mard, ikun hati ta' xi att jew kondotta meqjusa li ddewwem ir-ritorn tieghu għax-xogħol.

#### *Falzità jew tghawwiġ ta' fatti*

5. Falzità jew tghawwiġ ta' fatti, jiġifieri, jekk membru tal-Korp —

(a) xjentament jagħmel jew jiffirma xi dikjarazzjoni falza f'xi dokument jew ktieb uffiċjali; jew

(b) volontarjament jew bi traskuraġni jagħmel xi dikjarazzjoni falza, qarrieqa jew mhux eżatta; jew

(c) minghajr raġuni tajba u xierqa jiddistruġgi jew jaqta' minn xi dokument jew *records* uffiċjali, jew ibiddel jew ihassar xi reġistrazzjoni li jkun hemm fih.

#### *Ksur ta' fiduċja*

6. Ksur ta' fiduċja, jiġifieri, jekk membru tal-Korp —

(a) jikxef xi haġa li tkun dmir tieghu li jzommha sigrieta; jew

(b) jgħarraf, direttament jew indirettament, lil xi persuna li kontra tagħha jkun inhareġ jew ikun se jinhareġ mandat jew tahrika, hlief jekk fl-eżekuzzjoni legittima ta' dak il-mandat jew in-notifika ta' dik it-tahrika; jew

(c) minghajr awtorità xierqa jikkomunika lill-istampa pubblika, jew lil xi persuna mhux awtorizzata, xi haġa li jkollha x'taqsam mal-Korp; jew

(d) minghajr awtorità xierqa juri lil xi persuna li ma tkunx fil-Korp xi ktieb jew dokument miktub jew stampat li jkun proprjetà tal-Pulizija jew ta' xi dipartiment tal-Gvern; jew

(e) li ma jkunx il-Kummissarju jew delegat awtorizzat kif imiss mill-Kummissarju, jew membru ta' l-Assoċjazzjoni tal-Pulizija ta' Malta, jiehu sehem f'xi attività ta' l-imsemmija Assoċjazzjoni tal-Pulizija ta' Malta, bi ksur tad-dispożizzjonijiet ta' dan il-Kodiċi jew jaghti parir jew jinfluwenza, jew jittanta jaghti parir jew jinfluwenza, xi organu ta' l-imsemmija Assoċjazzjoni jew xi uffiċjal jew membru taghha, dwar xi attività ta' l-imsemmija Assoċjazzjoni tal-Pulizija ta' Malta; jew

(f) ma jastjenix minn kull attività politika jew thabrik jew minn kull attività li aktarx tfixkel il-qadi leali u imparzjali tad-dmirijiet tiegħu, jew li aktarx tqajjem l-impressjoni fost il-membri tal-pubbliku li tista' hekk tfixkel; jew

(g) jagħmel xi komunika anonima lill-Kummissarju jew lil xi uffiċjal iehor tal-Pulizija, jew lil xi dipartiment jew uffiċjal tal-Gvern; jew

(h) ihabrek jew jittanta li jhabrek xi membru tal-Kamra tad-Deputati jew tas-Servizz Pubbliku jew ta' xi korp jew organu iehor tal-Gvern, dwar xi haġa li għandha x'taqsam mal-Korp; jew

(i) jiffirma jew jiċċirkola xi petizzjoni jew dikjarazzjoni dwar xi haġa li għandha x'taqsam mal-Korp, hlief kif provdut b'dan il-Kodiċi jew b'xi regolamenti jew ordnijiet permanenti magħmula bis-saħħa tiegħu.

### *Korruzzjoni*

7. Korruzzjoni, jiġifieri, jekk membru tal-Korp —

(a) jirċievi xi haġa għal korruzzjoni; jew

(b) jonqos milli jaghti kont ta', jew milli jagħmel rapport minnufih u eżatt ta' xi flus jew propjetà li huwa jkun irċieva fil-kariga uffiċjali tiegħu; jew

(c) direttament jew indirettament jitlob jew jirċievi xi gratifikazzjoni, riġal, ikel jew xorb b'xejn, sottoskrizzjoni jew ċertifikat, mingħajr il-kunsens tal-Kummissarju; jew

(d) iqiegħed lilu nnifsu taħt obligazzjoni pekunjarja favur xi hadd b'tali mod li tista' taffettwah milli jaqdi dmirijietu b'mod xieraq; jew

(e) juża b'mod mhux xieraq il-kwalifika u l-kariga tiegħu bħala membru tal-Korp għal vantaġġ tiegħu privat; jew

(f) fil-kariga tiegħu bħala membru tal-Korp, jikteb, jiffirma jew jaghti, mingħajr l-approvazzjoni tal-Kummissarju, xi ċertifikat ta' kondotta jew

rakkomandazzjoni ohra bl-iskop li jikseb impieg ghal xi persuna jew li jsahhah applikazzjoni ta' kull xorta; jew

(g) minghajr il-konferma tal-Kummissarju, jappoġġja applikazzjoni għall-ghoti ta' licenzja tkun liema tkun.

*Eżerċizzju mhux legittimu jew mhux meħtieġ ta' awtorità*

8. Eżerċizzju mhux legittimu jew mhux meħtieġ ta' awtorità, jiġifieri, jekk membru tal-Korp minghajr raġuni tajba u xierqa —

(a) jagħmel perkwiżizzjoni jew igieghel persuna toqghod ghal xi test jew procedura, jew jagħmel arrest; jew

(b) juża xi vjolenza kontra prigionier jew kull persuna ohra li magħha jista' jiġi f'kuntatt fil-qadi tax-xogħol tiegħu; jew

(c) ikun maledukat ma' xi membru tal-pubbliku; jew

(d) jispara b'arma tan-nar.

*Simulazzjoni ta' mard*

9. Simulazzjoni ta' mard, jiġifieri, jekk membru tal-Korp jippretendi jew jesagera xi mard jew offiża bl-iskop li jiskarta x-xogħol.

*Assenza bla permess*

10. Assenza bla permess jew tard għax-xogħol, jiġifieri jekk membru tal-Korp minghajr raġuni xierqa jkun assenti minn, jew tard għal, parata, qorti jew kull xogħol iehor.

*Nuqqas ta' ndafa*

11. Nuqqas ta' ndafa, jiġifieri, jekk membru tal-Korp waqt ix-xogħol jew waqt il-frank bl-uniformi f'post pubbliku jkun b'leħja mhux imqaxxra, jew liebes b'mod mhux xieraq, jew mahmuġ jew traskurat fil-persuna, ilbies jew tagħmir tiegħu.

*Hsara fl-ilbies, eċċ.*

12. Hsara fl-ilbies, jew oġġetti ohra provduti, jiġifieri jekk membru tal-Korp —

(a) volontarjament jew b'negligenza jikkaguna xi hala, telf jew hsara lil xi oġġett ta' ilbies jew tagħmir, jew lil xi ktieb, dokument jew propjetà ohra tal-Pulizija jew ta' xi dipartiment tal-Gvern; jew

(b) jonqos milli jirraporta fil-pront xi telf jew hsara kaġunata kif intqal fil-paragrafu (a) qabel, ikun kif ikun; jew

(c) juża propjetà tal-Gvern għall-skopijiet oħra minbarra dawk għall-eżekuzzjoni tad-dmirijiet tiegħu.

### *Sokor*

13. Sokor, jiġifieri, jekk membru tal-Korp, waqt li jkun fuq ix-xogħol jew frank, ma jkunx kapaċi għax-xogħol minhabba x-xorb.

### *Xorb waqt ix-xogħol*

14. Xorb waqt ix-xogħol jew talb ta' xorb, jiġifieri, jekk membru tal-Korp –

(a) minghajr il-kunsens ta' l-uffiċjal superjuri tiegħu, jixrob jew jirċievi minghand xi persuna oħra, xi xorb li jsakkar waqt li jkun fuq ix-xogħol; jew

(b) jitlob, jew jittanta li jipperswadi xi persuna oħra li tagħtih, jew li tixtri jew tikseb għalih, xi xorb li jsakkar waqt li jkun fuq ix-xogħol.

### *Dhul f' postijiet b'licenzja*

15. Dhul f' postijiet b'licenzja, jiġifieri, jekk minghajr permess membru tal-Korp jidhol –

(a) waqt li jkun fuq ix-xogħol f' xi post licenzjat skond il-ligijiet dwar l-għoti tal-licenzji għal xorb spirituż jew f' xi post iehor fejn spiriti jkunu maħżuna jew jitqassmu, meta l-preżenza tiegħu hemm hekk ma tkunx mehtieġa fl-eżekuzzjoni tad-dmir tiegħu; jew

(b) xi post bħal dawk bl-uniformi meta jkun frank.

### *Self ta' flus, eċċ*

16. Self, tislif jew aċċettazzjoni ta' rigali, jiġifieri, jekk membru tal-Korp jislef flus lil xi superjur fir-rank jew jissellef flus jew jaċċetta xi rigal minghand xi hadd inferjuri fil-grad.

### *Trattament Diskriminatorju*

17. Trattament diskriminatorju, jiġifieri, jekk membru tal-Korp minghajr raġuni tajba, xierqa u legittima, jittratta persuna jew persuni b' mod diskriminatorju, kemm favuriha jew kontriha.

*Kundanna kriminali*

18. Kundanna għal reat kriminali, jiġifieri, jekk membru tal-Korp ikun instab hati ta' reat kriminali minn qorti.

*Komplicità f'reat*

19. Komplicità f'reat kontra d-dixxiplina, jiġifieri, jekk membru tal-Korp jippermetti xi reat, jew xjentement jikkommetti att ta' komplicità f'xi reat kontra d-dixxiplina.

*Kondotta ta' preġudizzju għal bon ordni*

20. Ksur ta' ordni, jiġifieri, jekk membru tal-Korp iġib ruħu, b'att jew omissjoni, b'xi mod ta' preġudizzju għal bon ordni jew dixxiplina, jew xort'oħra mhux xieraq għal membru tal-Korp, u mhux provdut għalih band'oħra f'din l-Iskeda.

*Tifsir*

21. Għall-finijiet ta' din l-Iskeda l-kelma "prigunier" tfisser kull persuna f'xi kustodja jew detenzjoni legali, kemm jekk kundannata, kemm jekk tkun tistenna li tiġi proċessata, kemm jekk miżmuma mill-Pulizija, kemm jekk miżmuma b'mandat jew ordni legittimu.

**IT-TIELET SKEDA**

(Artikolu 165)

**Ġurament għal qadi xieraq tal-kariga ta' Maġistrat Inkwirenti**

"Jien \_\_\_\_\_ solennement nahlef/niddikjara li fedelment u bl-onestà kollha u skond l-ahjar hila tieghi naqdi d-dmirijet tieghi bhala Maġistrat Inkwirenti skond il-liġi u minghajr biża' jew favuri. (Hekk Alla jghini)."

**IR-RABA' SKEDA**

(Artikolu 165)

**Ġurament ta' Lealtà tal-Maġistrati Inkwirenti**

"Jien \_\_\_\_\_ solennement nahlef/niddikjara li nkun tassew fidil u leali lejn il-poplu u r-Repubblika ta' Malta u l-Kostituzzjoni tagħha. (Hekk Alla jghini)."

(Artikolu 160)

## Statut ta' l-Assoċjazzjoni tal-Pulizija ta' Malta

### ARTIKOLU 1

1.1 Qed tiġi hawnhekk u bl-istess imwaqqfa Assoċjazzjoni li ghandha tissejjah bl-isem ta' l-Assoċjazzjoni tal-Pulizija ta' Malta, minn issa 'l quddiem maghrufa bhala "l-Assoċjazzjoni", taht dan l-istatut, u li ser tkun is-suċċessur fit-titolu ta' l-Assoċjazzjoni tal-Pulizija ta' Malta li kienet twaqqfet taht l-Ordinanza dwar il-Pulizija ta' Malta.

1.2 Kull kelma jew frazi f'dan l-Istatut ghandu jkollha l-istess tifsira li hija moghtija lilha fil-Kodiċi tal-Pulizija, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra.

### ARTIKOLU 2

#### *Ghanijiet u Ogġettivi*

2.1 L-ghanijiet u l-ogġettivi ta' l-Assoċjazzjoni ghandhom jkunu dawk imfissra fil-Kodiċi tal-Pulizija u, b'mod partikolari:

2.1.1 li thares u ttejjeb il-kundizzjonijiet ta' mpjeg tal-membri u li tavvanza l-interessi taghhom, b'referenza partikolari għall-partecipazzjoni ta' l-Assoċjazzjoni fil-Bord tal-Pulizija ghan-Negozjar, kif mwaqqaf fil-Kodiċi tal-Pulizija jew f'xi bord iehor li ghandu x'jaqsam, biex tidher għall-interessi tal-membri f'diskussjonijiet man-naħa ufficjali fil-Korp tal-Pulizija;

2.1.2 it-tkattir tal-livell intellettuali, morali u professjonali tal-membri;

2.1.3 it-trawwim u żvillupp tar-relazzjonijiet bejn il-kollegi membri, u li kienu membri tal-Korp tal-Pulizija ta' Malta;

2.1.4 it-tmexxija 'l quddiem tal-ġid tal-membri tal-Korp u d-dipendenti taghhom permezz ta' dawk is-servizzi li jkunu possibli minn żmien għal żmien, fosthom polzi ta' assigurazzjoni kollettivi;

2.1.5 li tagħti parir u għajjuna lil membri individwali fi proċeduri ta' dixxiplina;

2.1.6 li twaqqaf u tamministra fond jew fondi bl-iskop li jiġu provduti attivitajiet edukattivi, ta' ġid, kulturali u soċjali;

2.1.7 li tikri, tiehu b'kiri, tixtri jew b'mod iehor takkwista proprjetà u/jew uffiċċji għall-iskopijiet ta' l-Assoċjazzjoni;

2.1.8 li jkollha u tamministra proprjetà u fondi, u fl-eżekuzzjoni ta' l-għanijiet u oġġettivi tagħha, tista' timpjega persunal u konsulenti, u li tagħmel dak kollu li hu mehtieg, anċillari jew li jwassal għall-kisba ta' dawn l-għanijiet u oġġettivi.

### ARTIKOLU 3

#### *Shubija*

3.1 Is-shubija tkun volontarja u hi miftuħa għall-uffiċjali tal-Pulizija kollha.

3.2 L-uffiċjali tal-Pulizija kollha jiġu meqjusa li huma membri ta' l-Assoċjazzjoni, mill-ġurnata ta' qabel id-data li fiha jidhol fis-seħh dan l-Istatut.

3.3 Uffiċjal tal-Pulizija jista' jagħzel li jirriżenja minn membru ta' l-Assoċjazzjoni, wara d-data li fiha jidhol fis-seħh dan l-Istatut.

3.4 Is-shubija tispiċċa awtomatikament:

3.4.1 mal-mewt;

3.4.2 meta jispiċċa minn membru tal-Korp;

3.4.3 meta jiġri li membru jonqos li jhallas tas-shubija tiegħu għal erba' darbiet konsekuttivi;

3.4.4 meta jispiċċa volontarjament.

3.5 Is-shubija mill-ġdid ta' xi membru issir biss kemm-il darba jithallsu l-arretrati kollha li jistgħu jkunu jeżistu fiż-żmien li jkun spiċċa.

### ARTIKOLU 4

#### *Sottoskrizzjoni*

4.1 Is-sottoskrizzjoni ta' membru tkun dovut u pagabbli kull tliet xhur, bir-rata ta' Lm5.

4.2 Il-mizata ta' sottoskrizzjoni għandha tkun b'dik ir-rata li tistabbilixxi l-Konferenza Ġenerali b'vot tal-maġġoranza sempliċi.

4.3 Is-sottoskrizzjonijiet ghandhom jithallsu mill-membri kif tistabbilixxi l-Konferenza Ġenerali, iżda mad-dhul fis-sehh ta' dan l-Istatut, lill-uffiċjal li jhallas is-salarji.

## ARTIKOLU 5

### *Uffiċċju u Emblema*

5.1 L-uffiċċju ta' l-Assoċjazzjoni ghandu jkun fil-Kwartieri tal-Pulizija jew f'xi post iehor li jista' jiġi deċiż skond l-Istatut.

5.2 Is-sigill ghandu jinkludi l-emblema ta' l-Assoċjazzjoni tal-Pulizija ta' Malta.

## ARTIKOLU 6

### *Drittijiet u Dmirijiet tal-Membri*

6.1 Il-membri kollha ghandhom id-dritt li jeleġġu jew li jiġu eletti fl-Assoċjazzjoni.

6.2. Membru huwa marbut b'dan l-Istatut u bid-deċiżjonijiet meħudin skond il-proċess demokratiku intern.

6.3 Membru ghandu jkompli jhallas il-miżata tas-shubija kif preskritt minn żmien għal żmien mill-Assoċjazzjoni.

## ARTIKOLU 7

### *Shubija jew kuntatti barranin*

7.1 L-Assoċjazzjoni tista' tkompli tkun membru tal-Kunsill Ewropew tal-Unjonijiet tal-Pulizija (C.E.S.P.) skond l-Istatut tagħha.

7.2 L-Assoċjazzjoni ghandha iżomm daww il-kuntatti ma' Assoċjazzjonijiet ta' Pulizija barranin biex javvanzaw l-ideali tagħha.

## ARTIKOLU 8

### *Organi ta' l-Assoċjazzjoni*

8.1 L-organi ta' l-Assoċjazzjoni huma:

8.1.1 il-Konferenza Ġenerali

8.1.2 il-Kumitat Eżekuttiv

8.1.3 Il-Bordijiet ta' Ferġat

## ARTIKOLU 9

*Il-Konferenza Ġenerali*

9.1 L-ghola organu ta' l-Assoċjazzjoni ghandu jkun il-Konferenza Ġenerali li ghandha teleġġi l-Kumitat Eżekuttiv, u tkun il-korp ewlieni ta' l-Assoċjazzjoni li jagħmel *policies*.

9.2.1 Ghandu jkun hemm Konferenza Ġenerali Annwali, li ghandha teżamina u taddotta r-Rapport Annwali tal-Kumitat Eżekuttiv, u teżamina u tapprova l-Kontijiet Annwali. F'Konferenzi Ġenerali Annwali alternanti, ghandu jkun hemm l-elezzjonijiet msemmija f'dan l-Istatut għall-Kumitat Eżekuttiv.

9.2.2 L-Ewwel Konferenza Ġenerali ghandha tissejjah fi żmien tlett xhur mid-dhul fis-seħh tal-Kodiċi tal-Pulizija, u ghandha tissejjah mill-Kummissarju għall-approvazzjoni ta' dan l-Istatut u għall-elezzjoni tal-Kumitat Eżekuttiv u l-elezzjonijiet oħra msemmija f'dan l-Istatut.

9.2.3 Il-Konferenza Annwali ghandha tinzamm fix-xahar kalendarju ta' kull sena, skond kif l-ewwel stabbilit fil-paragrafu ta' qabel dan.

9.3 Il-Konferenza Ġenerali ghandha tkun magħmula mill-Kumitat Eżekuttiv, u minn sa żewġ rappreżentanti minn kull grad, hlief għall-Kummissarju u d-Deputat Kummissarju.

9.4 Iċ-*Chairman* ghandu jippresjedi d-deliberazzjonijiet tal-konferenza; fl-assenza tiegħu mis-Segretarju Ġenerali; fl-assenza tagħhom minn persuna mahtura mill-Kumitat Eżekuttiv.

9.5 Il-Konferenza ghandha tinzamm fil-post, data u hin magħzula b'deċizzjoni tal-Kumitat Eżekuttiv.

9.6 L-aġenda tal-Konferenza Ġenerali ghandha tkun mhejjija mill-Kumitat Eżekuttiv u ghandha titqassam mill-anqas xahar qabel il-jum magħżul. Id-deċizzjonijiet kollha ghandhom jittiehdu b'maġġoranza sempliċi.

## ARTIKOLU 10

10.1 Il-Kumitat Eżekuttiv ghandu jkun magħmul minn *Chairman*, Segretarju Ġenerali, Teżorier u membru wiehed minn kull grad, wara l-elezzjoni tagħhom waqt il-Konferenza Ġenerali.

10.2 Riżenji jistgħu jintlaqghu mis-Segretarju Ġenerali u postijiet li jibattlu wara għandhom jimtlew b'għażla sa l-elezzjonijiet li jkun imiss.

10.3 Il-Kumitat Eżekuttiv ikun responsabbli għall-amministrazzjoni xierqa tal-fondi, biex jagħmel rappreżentazzjonijiet u jmessi jew jagħmel arrangamenti għal negozjati ma' awtoritajiet kompetenti. Ir-rappreżentanza ġuridika ta' l-Assoċjazzjoni għandha tkun vestita fil-Kumitat Eżekuttiv.

10.4 Il-Kumitat Eżekuttiv jista' jiddelega rappreżentant biex jaqdu dawn id-dmirijiet jew parti minnhom.

10.5 Il-Kumitat Eżekuttiv għandu jimplementa d-deċiżjonijiet mehuda mill-Konferenza Ġenerali.

10.6 Il-Kumitat Eżekuttiv għandu jiltaqa' kemm-il darba jidhirli li jkun mehtieg biex imessi x-xogħol tiegħu b'mod effiċjenti. Il-*quorum* ikun nofs innumru tal-membri u wiehed, jew wara nofs siegħa mill-hin stabbilit, tal-membri preżenti.

10.7 Mozzjonijiet għal xi emenda jistgħu jiġu preżentati minn jew lill-Kumitat Eżekuttiv u għandhom jiġu pubblikati jew komunikati lill-membri ta' l-anqas għaxart ijiem qabel il-Konferenza Ġenerali.

## ARTIKOLU 11

### *Bordijiet ta' ferġat*

11.1 Għandu jkun hemm Bordijiet ta' Ferġat magħmula minn rappreżentanti kif jintwera hawn taht: —

11.1.1 Għal kull taqsima/ferġa/grad kif stabbilit mill-Kummissarju minn żmien għal żmien.

11.1.2 Hames rappreżentanti mill-kuntistabblijiet tal-Pulizija rġiel, kuntistabbli tal-Pulizija mara waħda, tliet Surgenti tal-Pulizija rġiel, Surgent tal-Pulizija mara, tliet Surgent-Maġġuri, hames Spetturi rġiel, żewġ Spetturi nisa, żewġ Supretendenti, Assistent Kummissarju wiehed, Deputat Kummissarju wiehed u l-Kummissarju.

11.1.3 Elezzjonijiet għall-Bordijiet ta' Ferġat għandhom isiru kull sentejn u l-uffiċjal bl-ghola grad f'kull taqsima jew ferġa jew grad jitqies bhala *returning officer* u l-uffiċjal elettoral.

11.1.4 Kull membru għandu dritt għal vot wiehed. Il-votazzjoni għandha dejjem issir b'vot sigriet.

11.1.5 Is-Segretarju Ġenerali jkun l-awtorità li tohrog l-avviż għal elezzjonijiet u jistabbilixxi l-post fejn l-elezzjonijiet għandhom isiru.

11.1.6 Meta jkun hemm post battal f'xi Bord ta' Fergha, ghandu japplika l-metodu ta' l-ghazla.

11.1.7 Kull Bord ta' Fergha ghandu jibghat delegati fil-Konferenza Ġenerali kif jidher hawn taht: —

Kunistabblijiet Rġiel	Hamsa	Kunistabblijiet Nisa	Tlieta
Surgenti Rġiel	Hamsa	Surgenti Nisa	Tlieta
Surgent Maġġur/Regimentali	Tnejn		
Spetturi Rġiel	Tnejn	Spetturi Nisa	Tnejn
Supretendenti	Tnejn	Assistenti Kummissarji	Tnejn
Deputat Kummissarju	Wiehed	Kummissarju	Wiehed

## ARTIKOLU 12

### *Awdituri*

12.1 It-teżorier jkun responsabbli għall-fondi ta' l-Assoċjazzjoni. Il-hlasijiet għandhom dejjem isiru permezz ta' kont biċ-ċekkijiet, li jkun jehtieg il-firma tat-Teżorier u ta' uffiċjal iehor tal-Kumitat Esekuttiv li ghandu jkun speċifikatament imsemmi.

12.2 L-awdituri jistghu jinhatru waqt Konferenza Ġenerali, li ma jkunx anqas minn tlieta u mhux aktar minn hamsa. Fin-nuqqas ta' din il-hatra, l-amministrazzjoni finanzjarja ċivili tal-Korp tal-Pulizija ghandha taghmel il-verifika annwali.

12.3 L-ebda hatra *full-time* m'ghandha ssir ta' persunal minn barra l-Assoċjazzjoni, kemm-il darba ma tkunx qabel inghatat l-approvazzjoni mill-Konferenza Ġenerali li ghandha tkun mgħarrfa bl-isem u l-kundizzjonijiet tal-persuna li tkun ser tinhatar. F'każijiet ohra, li jkunu għal żmien limitat jew għal biċċa xogħol speċifika, il-Kumitat Eżekuttiv jista' jiddeċiedi.

## ARTIKOLU 13

### *Xoljiment*

13.1 L-Assoċjazzjoni tista' tkun xolta bil-kunsens ta' hames sesti mill-membri, fil-Konferenza Ġenerali, jew wara li s-shubija tinzel għal taht tletin fil-mija ta' l-uffiċjali mill-grad kollha.

13.2 Fil-każ ta' xoljiment, kull bilanċ li jifdal fil-fondi jiġi trasferit lill-Korp tal-Pulizija, sabiex jinżamm sakemm eventwalment tinholoq Assoċjazzjoni ohra b'ghanijiet u oġġettivi simili għal dawk ta' l-Assoċjazzjoni tal-Pulizija ta' Malta.

## IS-SITT SKEDA

(Artikolu 254)

### Regolamenti dwar il-Pensjonijiet tal-Pulizija

#### *Regolamenti Ġenerali*

#### *Titolu fil-qosor*

1. Dawn ir-regolamenti jistghu jissejhu Regolamenti ta' l-1990 dwar il-Pensjonijiet tal-Pulizija.

#### *Lil min u b'liema rati jingħataw il-pensjonijiet*

2. Bla ħsara tad-dispożizzjonijiet tal-Kodiċi tal-Pulizija hawnhekk iżjed 'il quddiem imsejjah il-Kodiċi, u ta' dawn ir-Regolamenti, lil kull uffiċjal tal-Pulizija li jkun ilu fil-Korp għal għaxar snin jew iżjed, tista' tingħata pensjoni bir-rata ta' waħda minn erba' mija u hamsin tal-hlas tiegħu pensjonabbli għal kull xahar shih ta' servizz pensjonabbli, suġġetta għal-limitazzjonijiet msemmija fl-artikolu 258 tal-Kodiċi.

#### *Is-servizz m'għandux ikun maqtuġh*

3. Is-servizz li għalih tista' tingħata pensjoni ma għandux ikun maqtuġh, hlief fil-każijiet li fihom is-servizz ikun ġie maqtuġh minhabba li tnehhiet il-kariga jew ġie sospiż għal xi żmien l-impieg, u mhux minhabba imġieba ħażina jew irtir volontarju mill-impieg:

Iżda, iż-żmien ta' servizz qabel ma s-servizz ikun ġie maqtuġh jista' jiġi kkalkolat għall-pensjoni, flimkien maż-żmien tas-servizz wara li dan ikun ġie maqtuġh:

(a) jekk iż-żmien kollu ta' bejn is-servizz u iehor l-uffiċjal ikun għaddih f'impieg iehor fis-servizz tar-Repubblika; jew

(b) fil-każ meta dak l-uffiċjal tal-Pulizija, wara li jkun irriżenja mill-Korp, ikun sussegwentement issejjah lura fil-Korp bl-approvazzjoni tal-Prim Ministru minhabba fl-esiġenzi tal-Korp, u dik is-sejha lura tiġi ċertifikata mill-Prim Ministru.

#### *Salarji li jitqiesu għal kalkolu ta' pensjoni*

4. (1) Għall-fini biex jiġi kalkolat l-ammont tal-pensjoni ta' uffiċjal tal-Pulizija li kellu perijodu ta' mhux anqas minn tliet snin ta' servizz pensjonabbli skond il-Kodiċi qabel l-irtir tiegħu –

(a) fil-każ ta' uffiċjal tal-Pulizija li jkun żamm l-istess kariga għal żmien ta' tliet snin minnufih qabel id-data ta' l-irtir tiegħu, għandhom jitqiesu l-hlasijiet pensjonabbli annwali shah li jkun igawdi f'dik id-data dwar dik il-kariga;

(b) fil-każ ta' uffiċjal tal-Pulizija li f'xi żmien matul dak il-perijodu ta' tliet snin ikun ġie trasferit minn kariga għal oħra, iżda li l-hlasijiet pensjonabbli tiegħu ma jkunux tbiddu minhabba dak it-trasferiment jew trasferimenti, hlief bl-ghoti ta' xi żieda fl-iskala, għandhom jitqiesu l-hlasijiet pensjonabbli annwali shah li jkun igawdi fid-data ta' l-irtir tiegħu dwar il-kariga li kellu f'dak iż-żmien;

(ċ) f'każijiet oħra għandu jitqies it-terz tat-total tal-hlasijiet pensjonabbli li jkun igawdi l-uffiċjal tal-Pulizija dwar is-servizzi tiegħu matul it-tliet snin tas-servizz tiegħu minnufih qabel id-data ta' l-irtir tiegħu;

Iżda –

(i) jekk dak it-terz anqas mill-oghla hlasijiet pensjonabbli annwali li hu jkun igawdi fid-data ta' xi trasferiment f'dak iż-żmien ta' tliet snin għandhom jitqiesu dawk il-hlasijiet pensjonabbli annwali; u

(ii) jekk dak it-terz ikun anqas mill-hlasijiet pensjonabbli annwali li hu kien igawdi fid-data ta' l-irtir tiegħu, kieku baqa', f'xi kariga li minnha ġie trasferit f'xi żmien matul dak il-perijodu ta' tliet snin, u kien irċieva ż-żidiet kollha fl-iskala li, fil-fehma tal-Prim Ministru kienu jinghataw lilu għandhom jitqiesu l-hlasijiet pensjonabbli annwali li kien ikun hekk igawdi.

(2) Għall-fini biex jiġu stabbiliti skond il-paragrafu (1) ta' dan ir-regolament il-hlasijiet pensjonabbli li uffiċjal tal-Pulizija kellu jew kien ikollu, skond il-każ, huwa għandu jitqies –

(a) li kien fis-servizz bil-hlasijiet pensjonabbli shah matul il-perijodu ta' tliet snin minnufih qabel id-data ta' l-irtir tiegħu; u

(b) li kellu l-benefiċċju ta' kull żieda minhabba reviżjoni ta' salarji fil-hlasijiet pensjonabbli ta' kull kariga tiegħu bħallikieku dik iż-żieda kellha tithallas matul dak il-perijodu ta' tliet snin.

(3) Għall-fini ta' kalkolu ta' l-ammont tal-pensjoni ta' uffiċjal tal-Pulizija li kellu perijodu ta' anqas minn tliet snin servizz pensjonabbli qabel l-irtir tiegħu –

(a) ghandha titqies il-medja tal-hlasijiet pensjonabbli annwali li kellu matul dak il-perijodu;

(b) ghandu jitqies li kien fis-servizz bil-hlasijiet pensjonabbli shah matul dak il-perijodu;

(c) ghandu jitqies li kellu l-benefiċċju ta' kull żieda minhabba reviżjoni ta' salarji fil-hlasijiet pensjonabbli ta' kull kariga tieghu bhallikieku dik iż-żieda kellha tithallas matul dak il-perijodu; u

(d) il-perijodu li fihom huwa ma kienx jattendi ghax-xoghol bil-*leave* minghajr salarju, moghti minhabba raġunijiet ta' hteġa pubblika bl-approvazzjoni tal-President, u li fihom hu ma kienx ikkwalfika ghal pensjoni rigward servizz pubbliku iehor.

(4) F'ebda ċirkostanzi ma ghandhom il-hlasijiet pensjonabbli li ghandhom jitqiesu jkunu iżjed mill-hlasijiet pensjonabbli annwali shah li kellu l-uffiċjal tal-Pulizija fid-data ta' l-irtir tieghu dwar il-kariga li jkollu dak iż-żmien.

(5) Fil-każ ta' uffiċjal tal-Pulizija li ghalih japplika s-subparagrafu (d) tal-paragrafu (1) tar-regolament 5, id-data ta' l-irtir tieghu ghandha –

(a) meta dak l-uffiċjal jilhaq l-età ta' l-irtir; jew

(b) meta dak l-uffiċjal kien ikun, li ma kenitx ghat-tkeċċija tieghu, għalaq 25 sena servizz; jew

(c) meta dak l-uffiċjal imut,

qabel ma t-tkeċċija tieghu tkun ġiet dikjarata nulla mill-awtorità kompetenti, titqies li tkun id-data meta dak l-uffiċjal jilhaq l-età ta' l-irtir, jew id-data meta jkun għalaq 25 sena servizz, jew id-data meta jmut, skond liema tiġi l-ewwel; u l-hlasijiet pensjonabbli tieghu li ghandhom jitqiesu ghandhom ikunu dawk li hu kieku kien qiegħed jirċievi f'dik id-data li kieku ma kienx hekk tkeċċa.

#### *Kalkolu ta' pensjonijiet*

5. (1) Għall-finijiet ta' kalkolu ta' l-ammont ta' pensjoni ta' uffiċjal tal-Pulizija, il-perijodi li ġejjin ghandhom jitqiesu bhala servizz pensjonabbli:

(a) il-perijodi li fihom huwa kien jattendi ghax-xoghol;

(b) il-perijodi li fih irċieva nofs salarju;

(c) il-perijodi li fihom huwa ma kienx jattendi ghax-xoghol bil-*leave* b'salarju shih jew b'nofs salarju;

(d) il-perijodu wara t-tkeċċija mill-Korp, meta dik it-tkeċċija tiġi sussegwentement dikjarata minn awtorità kompetenti li kienet invalida, saż-żmien tat-tqeghid tiegħu lura mill-ġdid, jew id-data meta dak l-uffiċjal tal-Pulizija kien ikun għalaq 25 sena servizz, jew id-data meta dak l-uffiċjal tal-Pulizija jkollu jirtira minhabba l-età, jew id-data meta dak l-uffiċjal imut, skond liema tiġi l-ewwel.

U l-perijodi li fihom huwa kien nieqes bil-*leave*, minhabba dawk imsemmijin hawn fuq, għandhom jitnaqqsu mis-servizz kollu ta' l-uffiċjal sabiex jintlahaq il-perijodu ta' servizz pensjonabbli tiegħu.

(2) Għall-finijiet tas-subparagrafu (d) tal-paragrafu (1) ta' dan ir-regolament u għall-finijiet tal-paragrafu (5) tar-regolament 4, il-kelma "tkeċċija" għandha titqies li tinkludi "irtir obligatorju għal raġuni ta' interess pubbliku" u l-kelma "tkeċċa" għandha tiftiehem bl-istess mod.

#### *Servizz magħmul fil-kariga ta' haddiehor*

6. Meta uffiċjal jaġixxi flok haddiehor f'kariga pensjonabbli fil-Korp, iż-żmien ta' dan is-servizz jista' jingħadd bhala servizz pensjonabbli taht il-Kodiċi.

Basta li –

(a) iż-żmien illi fih l-uffiċjal ikun aġixxa ma jkunx biċċa mis-servizz pensjonabbli ta' l-uffiċjal li qabel kien fil-kariga, u m'għandux jiġi kkalkolat bhala biċċa mis-servizz pensjonabbli ta' dan l-uffiċjal taht il-Kodiċi fil-Korp;

(b) sewwa sew qabel dan iż-żmien ta' servizz jew sewwa sew warajh ikun hemm servizz fi kwalità effettiva fil-Korp.

#### *Tnehhija ta' kariga jew organizzazzjoni mill-ġdid ta' kariga*

7. Jekk l-uffiċjal tal-Pulizija jirtira jew jitneħha mill-Korp minhabba t-tnehhija tal-kariga tiegħu, inkella sabiex jagħti lok li jsir ahjar il-Korp biex b'hekk jista' jkun hemm iżjed effiċjenza u ekonomija, lil dan l-uffiċjal tista' tinghata pensjoni:

Iżda, madankollu, jekk huwa jkun ilu fil-Korp għal anqas miż-żmien ta' għaxar snin, meħtieġ biex jikkwalifika għal pensjoni jista' jiġi mogħti pensjoni kkalkolata skond ir-regolament 2 bhallikieku ma kien hemm ebda żmien ta' kwalifika:

Iżda, wkoll din il-pensjoni tinghata taht il-kondizzjonijiet illi hu jista' jerga' jiġi msejjah għas-servizz fil-Korp:

Iżda, barra minn dan, jekk dan l-uffiċjal tal-Pulizija ma jkunx tajjeb għal impieg ieħor fil-Korp jew jekk ma jkunx hemm raġuni ta' tama, fil-fehma tal-Prim

Ministru, illi fi żmien qasir jista' jerga' jiġi mpjegat, tista' tiġi lilu mogħtija pensjoni mingħajr il-kondizzjoni msemmija hawn fuq.

*Rati ta' Pensjoni meta karigi jiġu mneħħija*

8. Uffiċjal tal-Pulizija li l-kariga tiegħu tiġi mneħħija, tista' tingħatalu zieda fil-pensjoni bir-rata ta' waħda minn sittin tal-ħlas tiegħu pensjonabbli fis-sena għal kull perijodu shiħ ta'tliet snin servizz pensjonabbli:

Iżda –

(a) iż-żieda m' għandha f' ebda każ taqbez il-ġaxxa minn sittin; u

(b) ebda żmien m'għandha ssir b'mod illi tikkwalifika uffiċjal għal pensjoni ta' valur fis-sena oġġla minn dak li għalih huwa kien ikkwalifikat b'tul ta' servizz meta jilħaq l-età li fiha huwa jista' jiġi mgieghel li jirtira, jew għal pensjoni ta' valur fis-sena oġġla *mill-maximum* stabbilit fl-artikolu 258 tal-Kodiċi.

*Uffiċjali li jirtiraw minħabba ħsara fil-persuna*

9. (1) Meta Uffiċjal tal-Pulizija tiġrilu ħsara permanenti fil-persuna –

(a) fil-waqt li jkun qiegħed jagħmel ix-xogħol tiegħu, u

(b) mingħajr ħtija tiegħu, u

(c) minħabba ħsara li tagħha tkun speċifikament kaġun ix-xorta tax-xogħol tiegħu,

u b'hekk l-irtir tiegħu mis-servizz isir meħtieġ jew ikollu jsir wisq qabel iż-żmien li jmiss, jekk hu jkun ikkwalifikat għal pensjoni taħt ir-regolament 2, lilu tingħata, b'zieda tal-pensjoni mogħtija lilu taħt dan ir-regolament, pensjoni addizzjonali bir-rata tal-proporzjon tal-ħlas pensjonabbli li jkun qiegħed jieħu fid-data li gratlu l-ħsara u li tkun taqbel għall-każ tiegħu kif imfisser fit-tabella ta' hawn taħt:

Meta l-ħila sabiex jipprovdi għall-manteniment tiegħu nnifsu -

tonqos kemm xejn .....	minn sittin ħamsa;
tonqas .....	minn sittin ġaxxa;
tonqos sewwa .....	minn sittin ħmistax;
tispiċċa għal kollox .....	minn sittin għoxrin;

Iżda l-ammont tal-pensjoni addizzjonali jitnaqqas sa dik is-somma li l-Prim Ministru Jidhirlu xieraq f' dawn il-każijiet li ġejjin:

(i) meta l-uffiċjal tal-Pulizija li tiġrilu l-hsara jkun baqa' fis-servizz għal mhux anqas minn sena wara li tkun ġratlu l-hsara illi minhabba fiha rtira mis-servizz;

(ii) meta uffiċjal tal-Pulizija li tiġrilu hsara jkun, fid-data li tiġrilu l-hsara, jonqsu għaxar snin għall-età li fiha jista' jkun imġieghel jirtira; jew

(iii) meta l-hsara li tkun ġratlu ma tkunx hija waħedha l-kaġun ta' l-irtir, iżda l-kaġun ta' l-irtir ikun ukoll minhabba l-età jew mard mhux ikkaġunat mill-hsara:

Iżda wkoll, l-ammont kollu tal-pensjoni addizzjonali m'għandux ikun iżjed mill-ammont stabbilit fis-subartikolu (2) ta' l-artikolu 258 tal-Kodiċi.

*Pensjonijiet lil uffiċjali b'servizz anqas minn għaxar snin*

(2) Meta uffiċjal tal-Pulizija li tiġrilu din il-hsara ma jkunx għamel żmien hekk twil fis-servizz li jikkwalifika għal pensjoni taht ir-regolament 2 lil dan l-uffiċjal tkun tista', b'dankollu, tinghata pensjoni bir-rata ta' waħda minn erba' mija u hamsin tal-hlas tiegħu pensjonabbli għal kull xahar shih ta' servizz pensjonabbli flimkien ma' dik iż-żieda ta' pensjoni li tista' tinghata lilu taht il-parti ta' qabel ta' dan ir-regolament li kieku kien ikkwalifikat għal pensjoni.

*Pensjoni lil nisa romol ta' uffiċjali maqtula waqt is-servizz*

10. (1) Meta uffiċjal tal-Pulizija minghajr htija tiegħu jiġi maqtul fil-waqt li jkun qed jaqdi dmiru jew imut minhabba xi hsara li b'mod speċifiku tkun ġejja mix-xorta tax-xogħol tiegħu jew jiġi maqtul fil-waqt li jkun qed jaqdi dmiru, tista' tinghata pensjoni lill-armla li jhalli sakemm ma tiżżewwiġx ta' mhux iżjed minn għaxra fis-sittin tas-salarju pensjonabbli ta' żewġha fil-jum li tiġrilu l-hsara: u tista' tinghata pensjoni lil kull wild ta' dak l-impjegat sa ma dak il-wild jagħlaq it-tmintax-il sena, ta' mhux iżjed mis-sitta wiehed tar-rata li tinghata lill-armla, sakemm il-pensjonijiet miġburin flimkien ta' l-ulied ma jisbqux ir-rata li tisthoqq lill-armla.

(2) Id-dispożizzjonijiet ta' qabel iġoddu wkoll għal każ ta' uffiċjal li, wara li jirtira bil-pensjoni taht ir-regolament 9, imut bl-effetti diretti u immedjati tal-hsara li tkun ġratlu.

(3) Jekk mart l-uffiċjal tmut qablu, jew jekk ebda pensjoni ma tiġi mogħtija lilha taht dan l-artikolu, u huwa jhalli warajh ulied li kienu jkunu intitolati għal pensjoni li kieku għet mogħtija pensjoni lill-armla, jistgħu jinghataw lilhom pensjonijiet tad-doppju ta' l-ammont tal-pensjonijiet li għalihom fiċ-ċirkostanzi huma kienu jkunu intitolati.

(4) Jekk il-mejjet ma jhallix warajh armla jew ulied iltiema mill-omm, iżda jhalli 'l ommu li kienet tiddependi minnu għall-manteniment, is-somma tal-pensjoni li setgħet tiġi mogħtija lill-armla, li kieku kien hemm, tista' tinghata lill-omm, iżda din il-pensjoni tispicċa, jekk hija tkun armla u terġa' tiżżewweġ.

*L-imġieba tajba hija meħtieġa*

11. (1) Il-pensjonijiet ikkalkolati bir-rati msemmijin hawn fuq, jinghataw biss fil-każ ta' servizz li jkun sar tassew bil-fedeltà u b'mod meritevoli.

(2) Meta l-fedeltà u bżulija ta' l-uffiċjal ma jilhqax l-ewwel grad ta' mertu, il-kalkolu jista' jsir b'rati anqas minn dawk imsemmijin hawn fuq.

## SKEDA II

(Artikolu 4)

### Emendi fil-Kodiċi Kriminali (Kap. 9)

1. Minflok l-artikolu 346 għandu jidhol dan li ġej:

“346. Is-setgħat u d-dmirijiet tal-Pulizija għandhom jkunu dawk li jinsabu f'dan il-Kodiċi, fil-Kodiċi tal-Pulizija, u f'xi regolament magħmul bis-sahha tagħhom, fosthom ir-Regoli tal-Qorti.”

2. L-artikolu minn 347 sa 354 (inklużi) għandhom jiġu mhassra.

3. Fl-artikolu 360 —

(a) minflok is-subartikolu (2) tiegħu għandu jidhol dan is-subartikolu ġdid li ġej:—

“(2) Iċ-ċitazzjoni għandha issemmi biċ-ċar il-persuna mharrka, kif ukoll in-numru tal-karta ta' l-identità jew in-numru tal-passaport tagħha, meta disponibbli, u dikjarazzjoni qasira tal-fatti ta' l-akkuża, bil-partikolaritajiet ta' żmien u ta' lok li jkunu meħtieġa jew li jkunu jistgħu jinghataw. Għandu jkun fiha wkoll twissija li, jekk il-persuna mharrka tonqos li tidher, hija tiġi arrestata b'mandat tal-qorti u mressqa quddiem l-istess qorti fil-jum li jkun imsemmi fil-mandat.”.

(b) minnufih wara s-subartikolu (2) tiegħu għandu jidhol is-subartikolu (3) ġdid li ġej:

“(3) Meta persuna tingieb il-qorti b'ċitazzjoni, il-Qorti tista' timponi dawk il-kundizzjonijiet li jidhrulha xierqa biex tiggarrantixxi d-

dehra tal-persuna akkużata għall-proċedimenti, fosthom kundizzjoni li għandha tiffirma f'intervalli regolari l-għassa tal-pulizija, jew li għandha toqghod fl-indirizz tagħha f'ċertu sigħat tal-gurnata, iżda ma tistax timponi garanzija.”

4. Fl-artikolu 363 —

(a) l-artikolu preżenti għandu jiġu numerat mill-ġdid bħala s-subartikolu (1);

(b) minnufih wara s-subartikolu (1), għandhom jidhlu ż-żewġ subartikoli (2) u (3) godda li ġejjin:

“(2) B’dak kollu li hemm fid-dispożizzjonijiet ta’ l-artikoli ta’ qabel, in-notifika tista’ ssir bil-mezz ta’ posta reġistrata f’*envelope* sigillat fl-indirizz mogħti mill-persuna li għandha tiġi notifikata, jew fl-aħhar indirizz magħruf ta’ dik il-persuna jew fl-indirizz li jidher fil-karta ta’ l-identità tiegħu, b’dak il-mod u skond ir-regolamenti li l-Ministru responsabbli għall-gustizzja jista’ jordna b’avviż fil-Gazzetta tal-Gvern.

(3) Meta persuna tirrifjuta li tiġi notifikata b’ xi ċitazzjoni, ukoll jekk kunsinnata lilha bil-mezz tas-servizz postali, hija titqies għall-finijiet u skopijiet tal-liġi li għet debitament notifikata b’dik iċ-ċitazzjoni, u l-qorti tista’, skond iċ-ċirkustanzi tal-każ, tagħmel dak kollu li hu xieraq skond il-liġi.”.

5. Fl-artikolu 547 —

(a) minflok is-subartikolu (1) tiegħu għandu jidhol is-subartikolu (1) ġdid li ġej:

“(1) L-inkjesta għandha ssir minn Maġistrat Inkwirenti mahtur skond il-Kodiċi tal-Pulizija, u l-kelma “Maġistrat” f’dan it-Titolu, kull fejn tidher, tfisser dan il-Maġistrat Inkwirenti.”;

(b) fis-subartikolu (2) tiegħu minflok il-kelmiet “Maġistrat ta’ dik il-qorti” għandhom jidhlu l-kliem “Maġistrat Inkwirenti”.

6. Fl-artikolu 549, minflok is-subartikolu (1) tiegħu għandu jidhol is-subartikolu (1) ġdid li ġej:

“(1) Proċess verbal separat għandu jiġi magħmul għal kull wiehed mill-interventi li jsiru mill-Maġistrat Inkwirenti fl-istess investigazzjoni, u kull wiehed minn dawn il-proċessi verbali għandu jiġi ffirmat mill-Maġistrat Inkwirenti, fejn għandu jindika d-data u l-hin u l-post fejn ikun sar il-proċess verbal.”.

7. Fl-artikolu 550—

(a) minflok is-subartikolu (5) tieghu ghandu jidhol is-subartikolu (5) ġdid li ġej —

“(5) Il-proċess verbal ghandu jitqies li ġie magħmul sewwa, sakemm ma jiġix pruvat il-kuntrarju. Ma jkunx mehtieg li l-Maġistrat Inkwirenti jasal għal konklużjoni mill-proċessi verbali differenti ta’ kull aċċess, ir-rapporti ta’ l-esperti, l-proċessi verbali tax-xhieda eżaminati, iżda jista’ jindika l-opinjoni tieghu dwar ir-riżultat possibbli ta’ l-investigazzjoni jew dwar x’investigazzjonijiet ulterjuri ikunu jinhtiegu.”

(b) minnufih wara s-subartikolu (5) tieghu ghandhom jidhlu ż-żewġ subartikoli (6) u (7) ġodda li ġejjin:

“(6) L-uffiċjal tal-Pulizija inkarigat mill-investigazzjoni ghandu jkollu aċċess immedjat għal kull proċess verbal magħmul minn Maġistrat Inkwirenti, li ghandu jimxi biex jagħmlu malajr. Jekk, minhabba iċ-ċirkustanzi ta’ hin u post, ma jkunx possibbli li l-proċess verbal jkun magħmul immedjatament, il-Maġistrat Inkwirenti ghandu jkollu iż-żmien ta’ jum wiehed biex jagħmel il-proċess verbal.

(7) L-użu ta’ mezzi elettromanjetiċi għall-iskrizzjoni ta’ proċessi verbali ghandha tithalla, taht dawk l-istess kundizzjonijiet li japplikaw għall-Qorti tal-Maġistrati.”.

8. Fis-subartikolu (1) ta’ l-artikolu 551 —

(a) minflok il-kliem “il-Pulizija Eżekuttiva tal-Qorti tal-Pulizija Ġudizzjarja” ghandhom jidhlu l-kelmiet “il-Pulizija tal-Maġistrat Inkwirenti”.

(b) minflok il-kliem “Maġistrat tal-Qorti tal-Pulizija Ġudizzjarja” ghandhom jidhlu l-kliem “Maġistrat Inkwirenti”.

9. Fl-artikolu 556, minflok il-kliem “Maġistrat tal-kompilazzjoni” kull fejn jinsabu ghandhom jidhlu l-kliem “Maġistrat Inkwirenti”.

10. Fl-artikolu 557 —

(a) fis-subartikolu (1) tieghu, minflok il-kliem “Maġistrat tal-kompilazzjoni” ghandhom jidhlu l-kliem “Maġistrat Inkwirenti” u minflok il-kliem “il-qorti” ghandhom jidhlu l-kliem “Maġistrat Inkwirenti”;

(b) minflok il-kelma “qorti”, kull fejn tinsab fis-subartikoli (2), (3) u (4) ta’ l-artikolu msemmi, ghandhom jidhlu l-kliem “Maġistrat Inkwirenti”.

11. Fl-artikolu 564, minflok il-kliem “Maġistrat tal-kompilazzjoni” kull

fejn jinsabu, għandhom jidhlu l-kliem “Maġistrat Inkwirenti”.

12. Fl-artikolu 569 —

(a) fis-subartikolu (2) tiegħu, il-kliem “jew lill-Maġistrat tal-kompilazzjoni” għandhom jiġu mhassra

(a) fis-subartikolu (4) tiegħu, minflok il-kliem “Qorti tal-Pulizija Ġudizzjarja” għandhom jidhlu il-kliem “reġistru tal-Maġistrat Inkwirenti.”

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### **Għanijiet u Raġunijiet**

L-ghan ta’ dan l-Abbozz huwa li jintroduċi l-Kodiċi tal-Pulizija minflok l-Ordinanza dwar il-Pulizija ta’ Malta, skond il-programm ta’ modernizzazzjoni tal-Korp tal-Pulizija, speċjalment minhabba l-ġurisprudenza stabbilita mill-Qorti Ewropea tad-Drittijiet tal-Bniedem u istituzzjonijiet oħra. Jistabilixxi wkoll il-kariga ta’ Maġistrat Inkwirenti li taħdem f’kuntatt kontinwu mal-Pulizija. Emendi fil-Kodiċi Kriminali u t-thassir ta’ l-Att dwar is-Servizzi ta’ Sigurtà jkunu meħtieġa.

**A BILL  
entitled**

*AN ACT to make new provisions regarding the Malta Police Force and to introduce consequential amendments to the Criminal Code, Cap. 9.*

BE IT ENACTED by the President, by and with the consent of the House of Representatives, in the present Parliament assembled, and by the authority of the same, as follows:-

- Short title.                   **1.** This Act may be cited as the Malta Police Force Act, 1997.
- The Police Code.           **2.** The Malta Police Force, established under the Malta Police Ordinance, shall be regulated according to “The Police Code”, being Schedule I to this Act.
- Commencement of Police Code.           **3.** The Prime Minister shall by notice establish:
- (a) the date of the coming into force of the Police Code, and,
- (b) the date of the coming into force of the amendments to the Criminal Code;
- Provided that different dates may be so appointed for different provisions or for different purposes of the said Code.
- Consequential amendments to Criminal Code.           **4.** The Criminal Code shall be amended according to the provisions contained in Schedule II to this Act.
- Insertion of Police Code in Laws of Malta.           **5.** After the coming into force of the Police Code and after the repeal of the Code of Police Laws (Cap. 10), then the Police Code shall be inserted as the new Chapter 10 of the Laws of Malta.
- Repeal and saving. Act No. XVII of 1996.           **6.** (1) On the coming into force of all the provisions of the Police Code, the Malta Police Ordinance and the Security Services Act shall be repealed.

(2) The repeal of the Security Services Act shall not affect any consequential amendments to any other law effected by the said Act, which shall continue to remain in force.

7. On the coming into force of the provisions of the Police Code and of the amendments to the Criminal Code regarding the Enquiring Magistrate, and to the appointment of such Enquiring Magistrate, then any enquiry still pending before a magistrate of the Court of Magistrates shall be transferred to and be concluded by an Enquiring Magistrate.

The Enquiring  
Magistrate

## SCHEDULE I

(Section 2)

### THE POLICE CODE

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## PART I GENERAL

### *Short Title*

1. This Code may be cited as the Police Code.

### *Interpretation*

2. In this Code, unless the context otherwise requires -

“Commissioner” means the Commissioner of Police;

“enclosure” does not include any plot of land enclosed by rubble walls;

“excluded material” means:

(a) any personal records as defined hereunder acquired or created by a person in the course of any trade, business, profession or other occupation, or for purposes of any paid or unpaid office and which are held by that person in confidence;

(b) human tissue or tissue fluid which has been taken for the purpose of diagnosis, or medical treatment and which that person holds in confidence;

(c) journalistic material being material held in confidence by a journalist who received, acquired or created it to be used for the purposes of journalism;

“the Force” means the Malta Police Force;

“Gazetted Officer” means any police officer of or above the rank of Inspector;

“interception”, in relation to a warrant, includes the obtaining possession of, disrupting, destroying, opening, interrupting, suppressing, stopping, seizing, eavesdropping on, surveilling, recording, copying, listening to and viewing of communications and the extraction of information from such communications;

“items subject to legal privilege” means any communication between a lawyer and his client and any document or record enclosed with or referred to in such communication and made in connection with the giving of legal advice or in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, but the expression does not include items retained in the furtherance of a criminal purpose;

“member of the Force” means any police officer other than the Commissioner;

“personal records” means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating -

- (a) to his physical or mental health; or

(b) to spiritual counselling or assistance given or to be given to him; or

(c) to counselling or assistance given or to be given to him, for the purposes of his personal welfare;

“Police” means the Malta Police Force;

“police officer” means any person serving in the Force and includes the Commissioner;

“premises” means any place, vehicle, vessel, aircraft, seacraft, including an off-shore installation, or any temporary or moveable structure;

“proces verbal” means the record drawn up by a police officer to register the occurrence of an event, which record is required to be drawn up in accordance with the provisions of this Code and which was previously commonly referred to as “occurrence”;

“prescribed” means prescribed by regulations made under this Code.

## PART II

### CONSTITUTION

#### *Constitution*

3. There shall continue to be a police force known as the Malta Police Force.

#### *Objectives*

4. The main objectives of the Police are -

(a) to promote and enforce the observance of the laws, as a first guarantee to the rights of all persons in Malta, even before action is needed through the judicial system to repress, sanction or remedy any breach;

(b) to act as an immediate response to the right of the individual, to seek the protection and intervention of the law, and consequently every member of the Force has a role in the justice system;

(c) to prove through its actions that the law is equal and fair to all;

(d) to promote the orderly and peaceful cohabitation of all persons in Malta, paying due attention not only to the rights of individual property or belongings, but also to anything that belongs to the community;

(e) to seek the protection of the environment as part of the common good;

(f) to assist, within reasonable limits, any person seeking help, even though the ultimate responsibility to provide such help may not lie with the Force, but which that

person resorts to as a friendly public officer accessible to him or her:

(g) to perform honestly and effectively all such duties as are contained in this Code or any other law which imposes a duty on the Police.

#### *The President*

5. (1) The President of the Republic shall be the Head of the Malta Police Force.

(2) The President may address advisory messages to the Malta Police Force, whenever he, as Head of the State, deems it necessary, about matters which are in the national interest or which concern the good reputation of the Force.

(3) Any message shall be in writing and communicated to the Commissioner.

#### *Minister*

6. A Minister of the Government, hereinafter called the "Minister" shall be responsible for the Police.

#### *Commissioner and officers*

7. (1) The Force shall comprise a Commissioner, a Deputy Commissioner, and such other police officers of such ranks as may from time to time be approved by the Prime Minister.

(2) The Commissioner shall have the command, direction, management and superintendence of the Force.

(3) The Commissioner shall represent the Force in any judicial proceedings.

(4) Any act or thing which may be done, ordered or performed by the Commissioner may, subject to the orders and directions of the Commissioner, be done, ordered or performed by the Deputy Commissioner or an Assistant Commissioner.

### **PART III**

#### **APPOINTMENTS AND CONDITIONS**

##### *Appointments*

8. The appointment of all police officers shall be subject to such conditions, requirements and standards as may be prescribed by this Code, or by regulations or orders issued under this Code.

##### *Obedience*

9. Every member of the Force shall, in the execution of his duties, promptly and without challenge obey the lawful orders of the Commissioner or of the member's superiors in rank.

### *Incompatible Activities*

10. Every police officer shall devote his whole time to the service of the Force, and shall not carry on or be concerned in the running of any business, trade, profession or part-time work whatsoever, unless prior permission in writing has been obtained from the Commissioner, who shall follow the criteria as may be laid down for officers in the public service.

### *Assignment of Duties*

11. Every member of the Force shall be liable to be stationed at such places as the Commissioner may from time to time appoint:

Provided that the Commissioner shall refrain without good cause from posting officers for indefinite periods to areas, which on account of distance may cause undue hardship on the police officer or his family, or where the police officer's impartiality may, on account of community ties, be brought into doubt.

### *Training*

12. (1) Every member of the Force shall undergo such training and undertake such tests, assessments or examinations as the Commissioner may from time to time establish.

(2) Such tests, assessments or examinations shall be carried out over a period of time, to assess efficiency and professional capabilities and may include routine medical tests to ascertain suitability in the Force.

### *Inherent Status*

13. Every police officer shall be deemed to be a police officer at all times:

Provided that this provision shall be without prejudice to the rights of the police officer for his retribution, and under normal circumstances hours of work, rest and leave, and similar conditions of his employment.

### *Work schedules and benefits*

14. (1) The Commissioner shall assign to an Assistant Commissioner the duty to oversee the distribution of shift duties, to ensure that this is done in a fair and equitable manner.

(2) Such an Assistant Commissioner shall also ensure that there is an equitable distribution of duties which attract any benefits or additional remuneration.

### *Grievances*

15. (1) A police officer, who feels aggrieved that he is not being justly treated according to the provisions of the preceding sections, may apply directly to the Assistant Commissioner who shall draw up a report, to the Commissioner for his decision, unless a solution is found within a period of one month.

(2) A copy of the report drawn by the Asst. Commissioner shall be given to the aggrieved officer.

*Consultations on transfers*

16. The Commissioner shall consult with the highest ranking officer in a branch or division, when transfer of personnel is to be effected.

*Recruitment and Promotions Board*

17. (1) A Promotions and Recruitment Board shall be appointed by the Minister and shall be composed of two members nominated by the Attorney General, two members chosen by the Police Board, a member chosen by the Board of the Police Academy, and a Judge or a retired Judge who shall be the Chairman.

(2) Subject to the provisions of Section 110 of the Constitution, the procedures, criteria, tests, examinations and requirements for recruitment or promotions shall be established by the Commissioner, which shall be reviewed at least every three years.

(3) The Commissioner shall seek the advice of the Promotions and Recruitment Board, established under this section, before proceeding to make internal promotions on the strength of any powers delegated to him under section 110 of the Constitution or to make recommendations as required by the said section.

*Oath of office*

18. (1) No person appointed to the Force, other than by promotion within the Force, shall enter upon the duties of his office, or act in any way in connection therewith, before he has taken the oath of office contained in the First Schedule to this Code.

(2) The oath shall be taken and signed by all officers before a person duly empowered by law to administer an oath or before the Commissioner.

(3) The Commissioner shall take the oath of office before the President in accordance with the First Schedule to this Code.

*Resignation*

19. (1) No member of the Force shall be at liberty to resign from the Force or to withdraw himself from his duties in the Force unless expressly permitted to do so in writing by the Minister.

(2) Any member of the Force who wishes to resign or withdraw from his duties shall give to the Minister prior notice, not exceeding thirty days, as the Minister may require, stating the reasons for his intention to resign or withdraw himself from his duties, as the case may be.

(3) On the expiration of the notice given under subsection (2), the Minister shall grant the member of the Force to whom the notice relates permission to resign or to withdraw from his duties, as the case may be, unless -

(a) he is the subject of disciplinary proceedings before the Public Service Commission which have not been determined; or

(b) he is charged with an offence triable by a court of criminal jurisdiction; or

(c) he has otherwise rendered himself liable to be dismissed or removed from the Force.

(4) Any member of the Force whose period of notice expires during the occurrence or apprehended occurrence of hostilities, internal disorder, or other grave emergency of any kind, may be retained and his service prolonged for such further period, not exceeding twelve months, as the Minister may direct.

#### *Removal from office*

20. It shall be lawful for the Prime Minister to remove from his office at any time a police officer who -

(a) is considered unlikely to become, or has ceased to be an efficient police officer; or

(b) is incapable by reason of some infirmity of mind or body of discharging the duties of his office when such infirmity is likely to be permanent; or

(c) it is considered, having regard to the conditions of the Force, the usefulness of the officer thereto, and all the circumstances of the case, should in the public interest no longer serve as a member of the Force.

#### *Uniforms and stores*

21. (1) When any police officer shall cease to hold and exercise his office, he shall forthwith return to such person and at such time and place as the Commissioner shall direct all arms, ammunition, accoutrements, uniforms and other clothing and equipment which have been supplied to him at the public expense and which he is directed by the Commissioner to return.

(2) The Commissioner may direct any person who has custody or possession of any of the articles mentioned in subsection (1) which were in the possession of a former police officer to deliver up such articles at such place and to such person as the Commissioner may appoint.

#### *Offences*

22. (1) Any person, who refuses or wilfully fails to comply with a direction given by the Commissioner under section 21, shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a term not exceeding three months, or to a fine (multa) not exceeding one hundred Maltese liri.

(2) Any person who through negligence fails to comply with a direction given by the Commissioner as stated in section 21, shall be liable to pay as a civil debt to the Force the value of any such article not returned.

*Police Negotiating Board*

23. (1) There shall be a Police Negotiating Board for the consideration of questions raised by the official side or staff side, as hereunder defined, relating to hours of duty, pensions, leave, pay and allowances, and other conditions of service.

(2) The Police Negotiating Board shall have an official side, a staff side, and an independent chairman appointed by the Prime Minister.

(3) The official side shall be represented by the Permanent Secretary at the Ministry responsible for the Police, the Permanent Secretary at the Office of the Prime Minister, the Permanent Secretary at the Ministry responsible for finance, and the Permanent Secretary at the Ministry responsible for justice.

(4) The staff side shall be composed of four members selected by the Malta Police Association:

Provided that if there is more than one such association, then the number of members shall be apportioned according to the relative strength of such associations, calculated on the basis of their membership.

(5) Consultants for either side shall be allowed to attend meetings of the Board.

*Functions of Police Negotiating Board*

24. (1) The Police Negotiating Board shall submit its report to the Minister on any question raised, as provided in subsection (1) of section 23. The Minister, shall thereupon communicate his decision to the Police Negotiating Board, including a decision to remit once only for a reconsideration.

(2) In case of disagreement with the decision of the Minister, (excluding that ordering a reconsideration) the staff side may request that the matter be referred to arbitration.

*Arbitration*

25. The Prime Minister shall appoint three independent arbitrators who shall decide the matter in a final manner.

**PART IV**

**DISCIPLINE**

*Offences by police officers triable by the Courts*

26. (1) Any police officer who -

(a) being cognizant of any mutiny or sedition amongst the Force does not use his utmost endeavours to suppress such mutiny or sedition; or

(b) being cognizant of any intended mutiny or sedition amongst the Force does not without delay give information thereof to his superior officer; or

(c) being present at any assemblage tending to riot does not use his utmost endeavours to suppress such assemblage; or

(d) deserts; or

(e) persuades, procures, assists or attempts to persuade, procure or assist any police officer to desert; or

(f) knowing that any police officer has deserted or intends to desert does not without delay give information to his superior officer; or

(g) strikes, or offers violence to another officer, such officer being in the execution of his duty,

shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a period not exceeding one year.

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

(3) The punishment provided in subsection (1) of this section shall apply unless the fact constitutes a more serious criminal offence under the Criminal Code or some other law, in which case such Code or such other law shall apply.

#### *Causing disaffection*

27. Any person who —

(a) causes, or attempts to cause, or does any act calculated to cause disaffection amongst police officers; or

(b) induces, or attempts to induce, or does any act calculated to induce a police officer to withhold his service or to commit an offence against discipline,

shall be guilty of a criminal offence and shall be liable, on conviction, to imprisonment for a period not exceeding one year.

#### *Disciplinary offences*

28. Any member of the Force who commits any of the offences set out in the Second Schedule to this Code shall be guilty of an offence against discipline.

#### *Membership in organisations*

29. As police officers may form their own professional association or associations, according to this Code, it will be an offence against discipline if they are or become members of

any other outside organisation which has as its objects anything mentioned in section 23 of this Code.

*Proceedings in general*

30. (1) Disciplinary proceedings shall be regulated according to section 110 of the Constitution.

(2) Where any powers are delegated according to section 110 of the Constitution to the Commissioner to exercise disciplinary action, the Commissioner shall follow the procedures and shall have the powers as mentioned in the following sections.

*Proceedings before the Commissioner*

31. (1) The Commissioner shall appoint a Gazetted Officer to collect the evidence and to recommend the relative punishment applicable in the case, if any.

(2) The Commissioner shall refrain from personally conducting proceedings where he is a direct witness of the fact alleged or has to give evidence.

(3) The Commissioner or a Gazetted Officer shall have the power and authority to hear evidence on oath, and a warrant signed by him shall be equivalent to a subpoena issued to compel a witness to attend or to produce documents or exhibits.

(4) No person summoned as a witness shall be obliged to answer any question or produce any document or other exhibit which may tend to incriminate him and every such person shall, in respect of any evidence given by him in the enquiry be entitled to all the privileges to which a witness giving evidence before the Court of Magistrates in criminal matters is entitled in respect of evidence given by him before such court. In the same manner, the witness shall have the same duties as if he were summoned before the Court of Magistrates.

(5) Any person who, in evidence on oath before the Commissioner or a Gazetted Officer, gives false evidence, shall be guilty of a criminal offence and shall be liable, on conviction, to a term of imprisonment not exceeding two years and to general interdiction.

*Prosecution and defence*

32. (1) In proceedings as are mentioned in subsection (2) of section 30 –

(a) an officer higher in rank than the officer charged shall be detailed to represent the prosecuting side and produce the evidence in support of the charge;

(b) the officer charged may defend himself in person, or through the assistance of another police officer of his own choice, or a representative of a police association, as mentioned in Part XII of this Code, of which he is a member.

### *Evidence and Procedural Rules*

33. (1) The officer charged may summon witnesses on his own behalf, and cross examine witnesses brought against him, under the same conditions as prevail for the prosecution, and for this purpose the Commissioner shall issue the subpoena for such witnesses.

(2) The Commissioner or Gazetted Officer shall hear final submissions, both on the merits and on the punishment awardable, from the prosecution and the defence before giving his decision and awarding punishment, if any.

(3) The rules of evidence which would be applicable in a court of law shall apply to such proceedings, and summary notes are to be taken by the presiding officer, signed by him, and attached to the records of the case.

### *Delegated cases*

34. The Gazetted Officer appointed according to section 31 (1) shall always forward to the Commissioner the relative file together with his opinion about the merits of the case and the punishment, if any, recommended by him and the Commissioner may adopt the recommendation or reform it, either by dismissing the case and acquitting the officer charged or by reducing the punishment, if any.

### *Rules for investigations*

35. (1) The Commissioner may make rules regarding the procedures to be followed in the preliminary hearing into an allegation of a disciplinary offence.

(2) Such rules may include provisions for immediate disciplinary measures by superior officers or a police officer in cases which admit of no delay.

### *Independence of actions*

36. Any disciplinary proceedings taken against a member of the Force shall be without prejudice to any proceedings which may be taken against him under the provisions of the Criminal Code or any other law and any proceedings taken under any of such laws shall be without prejudice to any such disciplinary procedures for the same fact.

### *Punishments*

37. In proceedings before the Commissioner the following punishments may be awarded:

- (i) a fine not exceeding seven days' pay;
- (ii) stoppage of weekly rest days, not exceeding seven days;
- (iii) transfer in lieu of punishment;
- (iv) severe reprimand;

- (v) reprimand;
- (vi) caution.

*Excluded punishments*

38. (1) The punishment of:

- (i) dismissal; or
- (ii) requirement to resign, either forthwith or on such date as may be specified in the decision as an alternative to dismissal; or
- (iii) reduction in rank or seniority; or
- (iv) deferment of an increment or the reduction in the offender's rate of pay;

shall only be recommended by the Public Service Commission in terms of section 110 of the Constitution.

(2) The provisions of subsection (1) of this section do not preclude the Public Service Commission from imposing a punishment listed in section 37.

*Payment of fines*

39. All fines imposed in respect of offences against discipline shall be recovered from the pay due to the offender:

Provided that the Commissioner may, after taking into consideration the number of dependants of the officer, and other similar factors, spread such payment over a number of monthly instalments not exceeding the equivalent of one day's salary of the offender, or may give the offender the option to compensate by working extra unpaid hours.

*Damage to or loss of equipment*

40. If a police officer pawns, sells, loses by neglect, makes away with, or wilfully or negligently damages any arm, ammunition, accoutrement, uniform or other article supplied to him, or any property committed to his charge, he may, in addition to or in lieu of any other punishment, be ordered to make good, either partially or wholly, the value of such property or the amount of such loss or damage, as the case may be, and such value or such amount may be recovered by a deduction from his pay.

*Time limit for internal proceedings*

41. Disciplinary proceedings before the Commissioner shall not be instituted after the lapse of three months from the date of the commission of the offence.

*Cancellation from personal record*

42. An offence against discipline dealt with by the Commissioner shall cease to appear in the personal record of an officer after the lapse of two years, if he is not found guilty of any other offence during such period.

**PART V****DUTIES OF THE POLICE***Supremacy of law*

43. (1) It is the duty of the Force to observe and respect, in the execution of its duties, the inalienable human rights of the individual, and to protect the same rights.

(2) It shall be the duty of the Commissioner of Police to bring to the notice of all officers in the Force any information or judicial decision relevant to the workings of the Force.

*Public order*

44. It shall be the duty of the Force –

(a) to preserve public order and peace, and for such purpose it may take preventive actions compatible with the rights of the individual;

(b) to seek through friendly and impartial mediation the settlement of minor disputes between individuals, which if unresolved may lead to the commission of offences.

*Environment*

45. It shall be the duty of the Force to protect the environment, whether animate or inanimate, where it is manifestly endangered and unless preventive action is taken, irremediable damage may occur, even though the legal responsibility for investigation or prosecution of any offence may pertain to any other branch of the administration.

*Prevention of offences*

46. (1) The Force shall be in duty bound to prevent the commission of offences.

(2) Notwithstanding the generality of subsection (1), where authorised by law and in the manner so provided, the Police may delay its immediate intervention for the prevention of the commission of an offence.

*Lawful orders*

47. Where any police officer, in the execution of the duties mentioned above gives any order, which is reasonably required in the circumstances of the case, such an order shall be deemed to be a lawful order, until the contrary is proved.

*Detection of Offences*

48. (1) The detection and investigation of offences shall be the duty of the Force.

(2) It is the duty of the Police to collect and preserve all evidence, whether against or in favour of the person suspected of having committed that offence.

*Recording in writing*

49. Every police officer shall be bound to commit to writing, as early as practicable, any observation of fact, regarding which he may later be called to testify.

*Prosecution of offences*

50. (1) Unless the law otherwise specifies, it shall be the duty of the Force to bring offenders before the judicial authorities.

(2) It shall be the duty of police officers prosecuting in any case to bring before the Court all the evidence available whether in favour or against the person charged.

*Discrimination in prosecution*

51. (1) It shall be a breach of duty to fail to bring any other offender before the courts for similar acts or omissions, committed in the same circumstances, unless there are grounds for such different treatment, and the courts *ex officio* shall order that proceedings be instituted, when no reasonable grounds exist for such a different treatment.

(2) The provisions of subsection (1) of this section shall be without prejudice to the provision of section 541 of the Criminal Code (Cap 9).

*Prosecutions on complaint*

52. The Police shall not institute criminal proceedings, except on the complaint of the injured party, in cases where the law does not allow criminal proceedings except on such a complaint:

Provided that any police officer receiving a report for any such offence shall write down the report together with a note that he informed the person laying the report verbally that he has to produce such a complaint in writing according to the formalities required by law.

#### *Written reasons for prosecutions*

53. Save in the case of contraventions or other offences punishable with such pecuniary punishment, a police officer shall draw up and sign a report stating the reasons on what grounds and on what evidence he decided to bring an offender before the judicial authorities. In the same manner, he shall expressly state his reasons for deciding not to prosecute any person suspected of an offence. Such reports shall not be accessible to the public, unless there is an order by the court to the contrary.

## **PART VI**

### **POWERS AND LIMITATIONS**

#### *Powers according to law*

54. A police officer shall derive any power from the law, and to the extent authorised by law and the word law has the same meaning assigned to it in section 124 of the Constitution.

### **TITLE I - POWER OVER THINGS**

#### **Sub-title I - Power to Stop and Search**

#### *Power*

55. (1) A police officer may, in a public place, or in any place to which the public is admitted, even against payment of an entrance fee, search any person or vehicle, if he has a reasonable suspicion that the search will reveal the possession of things, which are prohibited, stolen or acquired as the result of any crime whatsoever, or which may be used in the commission of an offence.

(2) For the purposes of subsection (1) of this section, the Police may stop a person or a vehicle until the search is performed, and if things are found which are prohibited or may be connected with an offence, then such things shall be seized.

#### *Warrant*

56. Where the search is required in an unattended vehicle and it is not possible to obtain the attendance of its registered owner, then a police officer may only carry out the search if he has a warrant from a superior officer not below the rank of an inspector.

*Limitation as to search, etc*

57. Nothing in this section authorises the search of a person by a police officer of the opposite sex, or that the person searched be required to denude himself in public, or that a search be conducted by a police officer not in uniform unless clearly identified by the production of a police identity card.

*Proces verbal of search*

58. The Police carrying out such a search shall draw up a proces verbal stating all the particulars of the search, and the grounds on which they deemed it reasonable to effect it.

*Seizure*

59. Where any thing is seized, this shall be preserved and shall also be indicated in the proces verbal, which proces verbal shall always be transmitted to the Enquiring Magistrate.

**Sub-title II - Road Checks**

*Conditions for road checks*

60. The Police may organise a road check where there are reasonable grounds for believing that a check on vehicles in or passing through a locality may lead to —

(a) the arrest of a person who has committed or is reasonably suspected of having committed or of being about to commit a serious crime, not being a crime punishable under the Press Act; or

(b) the discovery of anything the possession of which is prohibited or restricted by law or which is connected in any way whatsoever with the commission of a serious crime or which is evidence of any such crime; or

(c) the arrest of any person whose arrest has been ordered by a court or any other lawful authority or who is otherwise unlawfully at large; or

(d) the ascertainment that a person is not abiding by a condition lawfully imposed on him by a court; or

(e) the ascertainment of violations of any law regarding motor vehicles or traffic regulation:

Provided that for the purposes of this section “serious crime” means any crime liable to a punishment of imprisonment.

*Exercise of road check*

61. (1) For the duration of the road check the Police may stop all or any vehicles passing through or in the locality where the road check is being organised.

(2) Where a vehicle has been stopped in exercise of the powers under this section that vehicle may be searched by the Police.

#### *Authorisation*

62. A road check under this Sub-title may only be organised upon an authorisation in writing by a police officer of the rank of Inspector or higher, but in cases where the matter admits of no delay such authorisation may even be given orally and reduced to writing as soon as practicable.

#### *Evidence of other offences*

63. Notwithstanding anything contained in the preceding sections, where in the course of a road check, evidence is found of the commission of any offence other than an offence in respect of which the road check was organised, the Police shall be entitled to investigate such offence and where appropriate to institute proceedings for that offence.

#### *Saving of other laws*

64. Nothing in this Sub-title affects the power of the Police to stop vehicles for purposes other than those mentioned in section 60 of this Code when authorised under any other law.

### **Sub-title III - Powers of Entry, Search and Seizure under warrant**

#### *Conditions for search*

65. (1) Subject to the provisions of subsection (3) of this section the Police may enter any premises, house, building or enclosure for the purpose of arresting any person therein who has committed a crime liable to the punishment of imprisonment, with the exception of the crimes punishable under the Press Act, 1974 or who is reasonably suspected of having committed or of being about to commit such a crime.

(2) Subject to the provisions of subsection (3) of this section the Police may also enter any place mentioned in subsection (1) thereof for the purpose of carrying out a search for any prohibited or restricted goods or for any material which may be connected in any way whatsoever with the commission of a criminal offence or which may constitute evidence of such an offence.

(3) Subject to the provisions of section 70 of this Code, any entry by the Police under the provisions of subsections (1) and (2) of this section may only be made upon a warrant for that purpose issued by an Enquiring Magistrate upon a reasonable suspicion that the person sought to be arrested or the goods, material or evidence to be searched for are to be found in the premises in question, and

(a) it is not practicable to inform the person who can grant entry to the premises or access to the goods, material or evidence; or

(b) entry would be denied if a warrant is not produced; or

(c) the purpose of the entry and search may be frustrated or seriously prejudiced, unless the Police can secure immediate entry.

*Extent of warrant of search*

66. (1) Any warrant issued under this section and any search or seizure made under the provisions of this section shall not extend to legal privilege or to any excluded material.

(2) A warrant to enter and search shall cover the person applying for it and such other officers accompanying him.

(3) An entry and search warrant may not be executed after the lapse of one month from the date of issue.

*Times for execution*

67. A warrant of entry and search shall be executed during reasonable times of the day unless the Enquiring Magistrate has otherwise authorised in the warrant, or unless the executing Police officer has reasonable cause to believe that the purpose of the entry and search will be frustrated if the execution of the warrant is delayed.

*Copy of warrant to person*

68. The executing officer shall hand over a copy of the warrant to the person occupying and present at the place searched or to any other person deemed by the said officer to be in charge of the same place and who happens to be present during the search. In any other case when no person in charge of the premises, under any title, is present the copy of the warrant shall be left in the place searched in such a way that the said copy is easily visible.

*Limitation*

69. A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued:

Provided that if offences other than the one or the ones mentioned in the warrant are discovered in the course of the search then the search may extend to the extent required for the purposes of such other offences.

**Sub-title IV - Powers of Entry and Search without warrant**

*Urgent searches*

70. Any police officer may enter any place as provided in subsection (1) and (2) of section 65, without a warrant from an Enquiring Magistrate upon a reasonable suspicion that the person

sought to be arrested or the goods, material or evidence to be searched for are to be found on the premises in question and there is reasonable cause for believing that:

- (a) there is imminent danger that the said person may escape or that the corpus delicti or the means of proving the offence will be suppressed; or
- (b) the person is detected in the very act of committing any crime not excepted under the provisions of subsection (1) of section 65; or
- (c) the intervention of the Police is necessary in order to prevent the commission of a crime not excepted under subsection (1) of section 65; or
- (d) the entry is necessary for the execution of any warrant or order issued by any other competent authority in the cases prescribed by law;
- (e) to recapture any person otherwise unlawfully at large.

#### *Entry and search after arrest*

71. (1) The Police have the power to enter and search any premises occupied or controlled, even temporarily, by a person who is under arrest, if they have reasonable grounds for suspecting that there is evidence, other than items subject to legal privilege, that relates to the offence or a connected offence, and such search shall be limited to the extent that is reasonably necessary for discovering such evidence:

Provided that if offences other than the one or the ones which originally gave rise to the arrest are discovered in the course of the search then the search may extend to the extent required for the purposes of such other offences.

(2) The Police may seize and retain anything found that is relevant evidence according to subsection (1) of this section and subject to the provisions of Sub-title V.

#### *Limitation*

72. (1) The powers mentioned in section 71 of this Code may be exercised by a police officer not below the rank of inspector, or by officers of a lower rank if so authorised in writing by an officer not below the rank of inspector.

(2) Where the matter admits of no delay and the person occupying or in control of the premises is present and his presence is necessary for the effective investigation of the offence, a police officer may proceed to such entry and search, without the authorisation in writing referred to in subsection (1) of this section.

#### *Proces verbal of officers*

73. A police officer who has exercised the power mentioned in sections 70 and 71 shall, as soon as practicable, draw up a proces verbal of the entry and search without warrant, stating the grounds for which it was exercised, and describing the results of the search.

*Definition of connected offence*

74. For the purposes of this Sub-title an offence is considered to be a connected offence in the same circumstances where there is connection between offences as provided in subsection 1(A) of section 413 of the Criminal Code.

**Sub-title V - Seizure and Retention**

*General rules for seizure*

75. (1) The Police, when lawfully on any premises, may seize anything which is on the premises if they have reasonable grounds for believing that it has been obtained in consequence of the commission of an offence or that it is evidence in relation to an offence and that it is necessary to seize it to prevent it being concealed, lost, damaged, altered or destroyed.

(2) The Police may exercise the power of seizure of a thing if it is relevant evidence in the investigation.

*Computer data*

76. The Police may in addition to the power of seizing a computer machine, require any information which is contained in a computer to be delivered in a form in which it can be taken away and in which it is visible and legible.

*Receipt for thing seized*

77. The Police shall always issue a receipt for anything seized to the person on the premises or in control of the thing seized and on request by any such person, the Police shall within a reasonable time supply to him photographs or copies of the thing seized, unless the investigating officer has reasonable grounds for believing that this would be prejudicial to the investigation or to any criminal proceedings that may be instituted as a result thereof.

*Retention*

78. (1) Anything which has been seized by the Police as provided in the preceding sections may be retained so long as is necessary in all the circumstances.

(2) Without prejudice to the generality of the aforesaid, anything lawfully seized under this Code may be retained for use as evidence at the trial or for forensic examination or any other aspect of investigation, or in order to establish its lawful owner.

(3) The Commissioner shall provide for the proper custody of anything seized.

*Restitution to owner*

79. A person, who is the rightful owner of a thing seized and retained, may make an application to the Enquiring Magistrate for its restitution, and the Enquiring Magistrate may by a decree order its release either unconditionally, or under such conditions as may be necessary to preserve the evidential aspects of the thing.

*Photographs*

80. Nothing shall be retained if a photograph or a copy would be sufficient.

**TITLE II - POWERS OF ARREST AND DETENTION****Sub-title I - Arrests***Arrest by private persons*

81. (1) Any person may arrest without warrant anyone who is in the act of committing or has just committed a crime, and shall without delay inform the police of his having effected the arrest.

(2) The crimes to which subsection (1) of this section refers are crimes in flagrante concerning the peace and honour of families and morals, wilful crimes against the person involving bodily harm, theft and wilful unlawful entry or damage to property.

(3) The power mentioned in subsection (1) of this section shall only be exercised until it is strictly necessary for the Police to take over the person arrested.

*Arrest by police without warrant*

82. (1) Any police officer may arrest without warrant anyone who is in the act of committing or has just committed a crime punishable with imprisonment, or whom he reasonably suspects to be about to commit or of having just committed such a crime.

(2) Any police officer may also proceed to the arrest of any person who knowingly, or after the due warning, obstructs or disturbs him in the execution of his duties, or disobeys his lawful orders.

(3) The powers mentioned in subsections (1) and (2) hereof shall only be exercised until it is strictly necessary for the police officer to convey the person arrested to the nearest police station and deliver him to a superior officer not below the rank of sergeant.

*Arrest for minor offences*

83. In the case of contraventions, or of crimes not subject to the punishment of imprisonment, excepting always the crimes punishable under the Press Act, it shall be lawful for the Police to proceed to the arrest of any person, provided that -

(a) the person be detected in the very act of committing an offence; or

(b) the arrest be necessary to prevent the commission of an offence in respect of which the Police may institute criminal proceedings without the complaint of the injured party; and

(c) in either of the cases mentioned in (a) or (b) above one of the conditions mentioned in section 84 must also be satisfied.

*General arrest conditions*

84. The general arrest conditions are -

(a) that the identity of the person is unknown or cannot be readily ascertained by the police officer; or

(b) there is a doubt whether the particulars furnished by the person are true; or

(c) that the person has not furnished a satisfactory address for service, or there are doubts about whether the address provided is satisfactory for service, or that at least some other person may according to law receive service on his behalf at the address given; or

(d) that the arrest is necessary to prevent the person -

(i) causing physical harm to himself or to any other person; or

(ii) suffering physical injury; or

(iii) causing loss or damage to property; or

(iv) committing an offence against public decency; or

(v) causing an unlawful obstruction on any public road; or

(e) that the police officer has reasonable grounds for believing that the arrest is necessary to protect a child or any other vulnerable person.

(3) The provisions of this section shall be without prejudice to any power of arrest conferred by any other provision of the law.

*Information to be given on arrest*

85. (1) When a person is arrested, the arrest is not lawful unless the person arrested is informed that he is under arrest, even though the arrest may be obvious.

(2) The arrest is not lawful unless the person arrested is informed of the grounds for the arrest at time of, or as soon as practicable, after the arrest.

(3) Nothing in this section shall render the arrest not lawful if the person arrested escapes from Police custody before being informed as stated in the preceding subsections of this section.

*Attendance at a police station or office*

86. (1) Where, in the course of an investigation, a person attends voluntarily at a police station or office, or accompanies there a police officer, he shall be entitled to leave at will, unless and until he is informed that he is under arrest.

(2) Where an inspector of Police has a reasonable suspicion that the person who attended voluntarily at the police station or office may have committed an offence subject to imprisonment, he may decide to arrest such person forthwith, and inform him accordingly, and the time of the arrest shall be immediately recorded. Immediate notice of any such arrest shall be given to the Enquiring Magistrate.

(3) A person is deemed to attend voluntarily if he is served with a notice in writing or informed verbally that the police require to obtain relevant information or documents from him, and opts to attend. The notice shall contain a warning of the consequences of failure to comply, as are mentioned in subsection (5) of this section.

(4) Any person, who is considered by the police as being in possession of any information or document relevant to any investigation, has a legal obligation to comply with a request from the police to attend as requested and to give as required any such information or document:

Provided that no person is bound to supply any information or document which tends to incriminate him.

(5) Where in the circumstances mentioned in subsection (3) of this section a person duly served with a notice in writing fails to attend at a police station or other place indicated in such a notice, or refuses to accompany voluntarily a police officer to any such station or place, even if the notice was given verbally, in any such case he shall be guilty of an offence punishable with detention and shall be liable to be arrested immediately under warrant.

(6) The arrest warrant mentioned in subsection (6) shall be issued by an Enquiring Magistrate.

(7) The notice mentioned in subsection (3) above may be served with urgency in cases where the interests of justice so require.

(8) A person who attends voluntarily as mentioned in subsection (3) may be kept apart from any other person, but shall not be kept in any place normally used for the detention of arrested persons.

*Arrest outside police stations or offices*

87. (1) When a person is arrested as mentioned in the preceding section, he shall be taken to the nearest police station, and where the arresting officer is an officer below the rank of inspector, he shall forthwith report the arrest to an officer not below the rank of inspector. In any case, the inspector in charge of that police station shall also be informed.

(2) The police officer shall take the arrested person to a designated police station as soon as practicable and in no case later than six hours from the time of the arrest.

(3) If the grounds for the arrest do no longer persist, the police officer is in duty bound to release the arrested person, even before taking him to a designated police station.

(4) Where a person is released as stated in subsection (3) of this section, the police officer shall draw up a proces verbal stating the circumstances which satisfied him that the arrest should not continue.

(5) Nothing in the preceding subsections shall prevent a police officer delaying taking a person who has been arrested to a police station, if the presence of that person elsewhere is necessary in order to carry out such investigations, as it is reasonable to carry out immediately.

#### *Arrest for another offence*

88. Where a person is under arrest and would be released from custody were it not for the fact that he is reasonably suspected of having committed an offence other than that for which he is under arrest, he shall be arrested for such other offence provided that the person arrested shall be released within forty-eight hours from the time he was first arrested unless within such time he is brought before a court.

#### *Search on arrested person*

89. (1) A police officer may immediately search the person arrested:

(a) if the police officer has reasonable grounds for believing that the arrested person may present a danger to himself or others; or

(b) for anything which the arrested person might use to assist him to escape from custody; or

(c) for anything which might be evidence related to an offence.

(2) The provisions of section 57 of this Code shall apply to searches on the person arrested under subsection (1) of this section.

#### *Entry and search on arrest*

90. (1) A police officer may also enter and search any premises in which the person arrested was when arrested or immediately before he was arrested for evidence relating to the offence, for which the arrest was made.

(2) A search and entry in pursuance of the provisions of subsection (1) of this section shall only be made under the same conditions laid down for the issue of a warrant under subsection (3) of section 65 of this Code other than the condition laid down in paragraph (b) thereof.

(3) The provisions of sections 75 to 80 of this Code shall apply to things to be seized or retained or in fact seized or retained as a result of any search, in pursuance of the foregoing provisions of this section.

#### *Arrest under warrant*

91. Where there are lawful grounds for the arrest of a person, the Police may request a warrant of arrest from the Enquiring Magistrate, unless in accordance with any provision of law the arrest in question may be made without a warrant.

### **Sub-title II - Warrants**

#### *Procedure for warrants*

92. (1) Except where the law provides otherwise, a police officer shall in all cases apply in writing to the Enquiring Magistrate for a warrant, stating the grounds for the request.

(2) The Enquiring Magistrate may request that the police officer confirms on oath the contents of the application.

(3) In cases of urgency, the application and the warrant may be communicated even by facsimile:

Provided that, as soon as practicable, the originals shall be delivered for record purposes.

#### *Copies of warrants*

93. Any warrant shall be drawn upon in three signed copies, except in the case of a facsimile transmission, a copy of which shall be delivered to the person entitled to receive it, another copy shall be retained by the Enquiring Magistrate, and another by the police officer.

#### *Report of arrest*

94. (1) Where any person is arrested, whether with or without a warrant, the police officer shall, as soon as practicable, inform the Enquiring Magistrate, giving all details as to time and place where the person is being held.

(2) The Enquiring Magistrate may order that the person arrested be transferred to another place with immediate effect.

#### *Immediate orders*

95. Any order touching on the rights of the individual shall be carried out without delay, and for such purpose may be communicated even by facsimile or telephone, under such conditions as to guarantee their authenticity.

### **Sub-title III - Detention**

#### *Right to release*

96. (1) A person detained in Police custody shall be released immediately, as soon as the grounds for the detention have ceased to apply, and there is no other ground for his continued detention.

(2) Where it appears that, for the ends of justice the continued detention, although lawful, is no longer necessary, the detained person shall be released, provided that he binds himself to reside and not to leave Malta without prior permission from the Police and to report at regular intervals at a police station.

(3) The obligation mentioned in subsection (2) shall remain valid for not more than six months, unless renewed or unless revoked earlier by the police.

#### *Requirement of custody officer*

97. At any place where a person may be detained for more than six hours, there shall be appointed a custody officer, who in matters of detention is answerable directly to the Enquiring Magistrate.

#### *Incompatibilities*

98. Any officer involved in the investigation of an offence cannot be the custody officer of the person in police detention for that offence.

#### *Custody officer*

99. (1) The custody officer shall in the case of a police station be the highest police officer present at the time, provided that if such officer is the investigating officer, the custody officer shall be the officer next higher in rank.

(2) The custody officer at a designated place of detention shall be the officer appointed for such purpose by the Commissioner.

#### *Duties of custody officers*

100. The custody officer shall:

(a) release any person who has been detained for more than forty-eight hours since his arrest, without being brought before a court according to the provisions of the Constitution, or without a court order to that effect;

Provided that before effecting such release the custody officer shall inform the investigating officer and the Enquiring Magistrate on duty and the final decision shall rest with the Enquiring Magistrate;

(b) release any person when so ordered by the investigating officer who had proceeded to or requested his arrest;

(c) ensure that persons detained in their station or a designated place of detention are treated in accordance with the law and according to any code of practice that may be issued;

(d) keep records of anything that needs to be recorded with reference to a detained person, as provided in this Code or in any code of practice that may be issued;

(e) in consultation with the investigating officer attend to any medical or other humanitarian needs of the person detained, and shall in no case assume personal responsibility where any medical attention is requested or manifestly required;

(f) seek to ensure that the place where persons are detained conforms to acceptable standards of hygiene and comfort, especially if a detained person is to sleep therein;

(g) seek to ensure that there is no danger to the life of the person detained, even if left unattended.

#### *Transfer of detainee*

101. (1) When a detained person is transferred to another place of detention, the responsibility for the welfare of that person shall devolve on the new custody officer who shall assume responsibility.

(2) An Enquiring Magistrate may order at any time that the detained person be transferred to another place of custody.

#### *Review of Police Detention*

102. (1) The custody officer shall, personally review with the investigating officer the continued detention of the person detained, and whether it is justified in the circumstances.

(2) The first review shall be carried out within the first twelve hours from arrest and periodically thereafter at intervals not exceeding twelve hours. A record shall be kept of the fact and of the result of each review.

#### *Allegation of ill-treatment*

103. Any allegation that the detained person is being or has been ill-treated during the period of his detention by the Police shall be referred to the Enquiring Magistrate without delay.

*Records of detention*

104. The custody officer shall keep a register in which shall be recorded such personal details as to enable the identification of any person detained at the police station where the officer is stationed as well as all other relevant information concerning the detention of the person detained including:

- (a) the name of the arresting officer;
- (b) the date and time of arrest;
- (c) the date and time that the detained person was brought to the station;
- (d) the time of any interrogation and the duration thereof;
- (e) the time and result of any review of detention;
- (f) the time and nature of any requirements for medical advice or treatment and the action taken thereon;
- (g) the date and time of any transfer of the detained person to some other place with an indication of the place in question;
- (h) the date and time of the release of the detained person and under whose authority the release was made.

*Searches of detained persons*

105. (1) The custody officer shall keep a written record of everything in the possession of the person arrested who is to be detained at the police station and of any item seized and retained in accordance with any provision of law. Such a record shall be made part of the detained person's custody record.

(2) The custody officer may seize any item, including any item of clothing or personal effects, in the possession of the person arrested if he has reasonable grounds for believing that such item may be evidence relating to an offence or if he believes that it may be used by that person -

- (a) to cause physical injury to himself or to any other person; or
- (b) to damage property; or
- (c) to interfere with evidence; or

(d) to facilitate his escape.

(3) The provisions of sections 75 to 80 of this Code shall apply in the case of any seizure made under this section.

*Intimate searches of the person detained*

106. Where the arresting officer or the custody officer has a reasonable suspicion that the person arrested may have concealed on his person any drug the unlawful possession of which would constitute a criminal offence or any other item falling within the description of items mentioned in section 105 above, the said officer may request the Enquiring Magistrate to order an intimate search of the person arrested.

*Experts to be appointed*

107. (1) Upon a request for an order for an intimate search under section 106 the Enquiring Magistrate shall appoint an expert to carry out the search under such safeguards as he may consider necessary for the purpose of decency and to report to him on his findings. A copy of the report shall be communicated without delay to the arresting or custody officer as the case may be.

(2) A person shall not be appointed an expert of the purpose of carrying out an intimate search on a person of the opposite sex unless the expert is a medical practitioner and the person to be searched consents thereto in writing.

*Seizure*

108. Anything found as a result of an intimate search under the foregoing sections may be temporarily retained by the expert and may subsequently be seized by order of the Enquiring Magistrate, and a receipt therefor shall be given to the detained person.

**Sub-title IV - Rights of Person Detained**

*Right to inform friends and to medical assistance*

109. (1) Where the person arrested or detained so requests it shall be the duty of the Police to inform a relative or a friend not being a relative or friend reasonably suspected of being involved in the offence of such arrest. The information shall be communicated by a police officer without delay and shall be recorded in the detention record of the person detained.

(2) Notwithstanding the provisions of subsection (1) above, the investigating officer may request by an application to the Enquiring Magistrate that he be authorised to delay the relaying of such information, if there are reasonable grounds for suspecting that such information may be prejudicial to the investigation, to the recovery of things, or that it may alert other

persons who are connected with the offence and are still not in Police custody. Such a delay shall not be later than six hours from the time when the arrest was effected.

(3) In the case of minors, the person having the care and custody of the minor shall always be informed immediately.

(4) An arrested person shall if he so requests have the right to a medical adviser of his choice; provided that such medical adviser of choice shall be found within a reasonably short time:

Provided that when any treatment is needed and it is not advisable to carry out such treatment where the arrested person is being detained, such treatment shall be in a public hospital or health centre, and during such times of advice or treatment the person shall be deemed not to be under arrest even though he may be re-arrested on completing the treatment.

#### *Right to legal assistance*

110. (1) A person arrested and in Police custody shall be informed at the earliest opportunity that he is entitled to legal assistance and, if he so requests, the detained person shall be entitled for legal advice in private at any time and any such request shall be recorded in the custody report together with the time that it was made.

(2) The investigating officer or custody officer, as the case may be, shall immediately communicate the request to an Enquiring Magistrate who shall refer the detained person for free advice to another Enquiring Magistrate, who shall be hereinafter called the Advising Magistrate. The person in custody shall be allowed to consult with the Advising Magistrate for such time as the Enquiring Magistrate may deem appropriate in the circumstances of the case.

(3) The Enquiring Magistrate may, on a justified objection by the Police, delay any communication with an advocate or legal procurator of the detained person's choice, as mentioned in the preceding subsection, if the interests of justice so require or when any of the circumstances mentioned in subsection (2) of Section 112 may probably subsist.

(4) The delay mentioned in subsection (3) of this section shall in no case exceed forty-eight hours from the time when the arrested person arrived at a police station or office voluntarily or thirty-six hours from the time of the arrest.

(5) Where the eventual defence of a suspect may be prejudiced on the basis of any inferences that may be drawn during the trial on account of his reactions, refusal or other attitude during the interrogation then, in any such case the suspect has the right to consult an Advising Magistrate and an advocate or legal procurator of his choice.

(6) Any advocate or legal procurator or any medical adviser, chosen by the suspect, who reveals, before the suspect is arraigned in court, to any third party anything that came to his knowledge on his being present to assist a client during his detention, shall be guilty of an offence and shall be liable to the punishment of imprisonment from four months to one year or to a fine (multa) and to the temporary interdiction from the exercise of his profession.

(7) Any advocate or legal procurator assisting the person being interrogated shall be allowed at the end of the interview by the Police to ask additional questions, to produce documents and to indicate other evidence which may be relevant.

(8) An advocate or legal procurator who, through his actions obstructs the proper conduct of the interrogation shall be ordered to withdraw and the investigation officer shall report the matter, through the Enquiring Magistrate to the Commission for the Administration of Justice.

(9) Any police officer who tries to indicate to a person detained the advocate or legal procurator who should be engaged during the detention of such person, shall be guilty of an offence and shall be punishable with a fine (amenda) and this without prejudice to any disciplinary proceedings that may be taken against him.

### *Advising Magistrate*

111. (1) The Advising Magistrate shall at all times act in the exclusive interest of the person arrested, shall advise him of his rights at law and shall, with the prior consent of the person arrested, refer to the Enquiring Magistrate involved in the investigation any request for the hearing of any person or for the collection and preservation of any evidence which the person arrested may wish to rely upon in his defence.

(2) Any communication between the person arrested and the Advising Magistrate shall be covered by professional secrecy. The Advising Magistrate shall be precluded from participating in any way whatsoever, whether directly or indirectly, in the investigation of the offence of which the person arrested is suspected, except for safeguarding the interest of that person.

### *Suspension of interrogation*

112. (1) Subject to the provisions of subsection (2), any further questioning by the Police of a person arrested who has requested legal advice shall take place after the person arrested has consulted the Advising Magistrate or a lawyer of his own choice provided in section 111 of this section.

(2) The provisions of subsection (1) of this section shall not apply where the further questioning is authorised by the Enquiring Magistrate, who shall only give his authorisation where he has reasonable grounds for believing that delaying such questioning, until the person arrested obtains legal advice:

(a) will lead to interference with or harm to evidence connected with the offence being investigated or interference with or physical injury to other persons; or

(b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or

(c) will hinder the recovery of any property obtained as a result of such an offence.

*Tape-recording and video-recording of interviews*

113. It shall be the duty of the Minister to make regulations providing for a code of practice for the audio-recording on tape or for the video-recording on film of any interview of a person suspected of the commission of an offence, as may be specified in the said regulations.

*Fingerprinting and other samples*

114. The investigating officer with the assistance of such competent persons as may be necessary and with the appropriate consent, may —

(a) take fingerprints, palm-prints or other prints from the person arrested;

(b) take photographs of the person arrested or of non-intimate parts of his body;

(c) take non-intimate samples from the person arrested.

*Samples under authorisation*

115. The investigating officer may by application request the Enquiring Magistrate to authorise the necessary procedure —

(a) where he has reasonable grounds to require the taking of intimate samples from the person arrested; or

(b) to take photographs of intimate parts of the body of the person arrested; or

(c) where the person arrested withholds his consent for any procedure as laid down in section 114 of this Code:

Provided that where the request falls under paragraph (a) above, the provisions of section 117 shall apply and, if the request falls under paragraph (b) above, the provisions of section 107 shall apply.

*Samples from other persons*

116. Samples from a person other than a person arrested may only be taken with that person's prior consent in writing.

*Intimate samples by consent*

117. Subject to the provisions of section 115 and 118 of this Code, an intimate sample may be taken from a person arrested only if his appropriate consent is given.

*When consent is refused*

118. (1) Upon a request under paragraph (a) or (b) of section 115, the Enquiring Magistrate shall obtain all such information from the investigating officer to enable him to decide on whether the request is justified or not.

(2) Where the Enquiring Magistrate decides that the request is justified he shall interview the person arrested and shall explain to him the nature of the request and the reasons thereof and shall ask him whether he consents to the procedure. He shall also explain to the person arrested that he is entitled to consult with an Advising Magistrate before deciding whether or not to give his consent.

(3) Where the person arrested chooses to consult an Advising Magistrate the provisions of sections 110, 111 and 112 shall mutatis mutandis apply and only after the person arrested has consulted the Advising Magistrate can he be requested to give his consent. It shall be the duty of the Advising Magistrate to explain to the person arrested the consequences at law of giving or refusing his consent to the requested procedure.

*Duty of Enquiring Magistrate*

119. Where the person arrested chooses not to consult an Advising Magistrate he shall be requested by the Enquiring Magistrate to give his consent in writing to the procedure requested and it shall be the duty of the Enquiring Magistrate to explain to the person arrested the consequences at law of giving or refusing his consent.

*Applicable procedure for samples*

120. Where an intimate sample is to be taken under these sections the provisions of sections 106, 107 and 108 shall apply.

*Inferences from refusal*

121. Where the appropriate consent to the taking of an intimate sample from a person was refused without a good cause, in any proceedings against the person for an offence, those who have to judge of the facts may draw such inferences from the refusal as appear proper and the refusal may, on the basis of such inferences, be treated as, or as capable of amounting to corroboration of any evidence against the person in relation to which the refusal is material.

*Samples at the request of person arrested or other persons*

122. The person arrested may request in writing that the investigating officer carries out any of the procedures mentioned in section 114, and any such request shall be complied with by the investigating officer with the assistance of any competent person as may be necessary.

*Request for intimate samples*

123. The person arrested may also request in writing the investigating officer to carry out any of the procedures mentioned in section 115, and any such request shall be referred without delay to the Enquiring Magistrate. The Enquiring Magistrate shall authorise the procedure requested after verifying the request made by the person arrested and the provisions of sections 106, 107 and 108 shall apply.

*Requests by third parties*

124. The provisions of sections 122 and 123 shall also apply to any other person who has reason to believe that there is the likelihood that the failure to carry out any of the relevant procedures will result in his being arrested and detained.

*Definitions*

125. For the purposes of sections 114 to 124

“appropriate consent” means -

- (a) in relation to a person who has attained the age of 18 years, the consent of that person;
- (b) in relation to a person who has not attained that age but has attained the age of 14 years, the consent of that person and his parent or guardian; and
- (c) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian;

“intimate sample” means a sample of blood, semen or any other tissue fluid, urine, saliva or pubic hair, or a swab taken from a person’s body orifice;

“non-intimate sample” means -

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part of a person’s body other than a body orifice;
- (d) a footprint or a similar impression of any part of a person’s body other than a part of his hand.

*Identifications*

126. (1) Where any identity parade or identification of objects is considered desirable by an investigating officer it shall be conducted by an Enquiring Magistrate, who shall take such steps as to ensure that there is no suggestion or outside influence in the choice made.

(2) Regulations may be prescribed laying down rules for the carrying out of an identification parade.

*General Provisions*

127. (1) Where the investigation is being conducted with the participation of an Enquiring Magistrate, or the person detained is being kept in a place of custody under his direct control, all the duties of the custody officer regarding the welfare of that person shall, mutatis mutandis, apply to the Enquiring Magistrate.

(2) Where in the preceding sections anything falls to be decided by the Enquiring Magistrate, such a decision shall be by a decree which shall state the reason of fact and law on which it is based.

(3) Where in the preceding sections, the investigating officer is required to file an application, he shall premise the request by such grounds which he genuinely believes to be true and reasonable, and the Enquiring Magistrate may in all cases require that the application be confirmed on oath.

(4) Any authorisation given by an Enquiring Magistrate shall, unless the contrary intention appears, lapse after one month, but may be renewed for a good cause.

**Sub-title V - Extension of Investigation**

*Bringing before court without charge*

128. On bringing a person reasonably suspected of having committed an offence before a Court within the period of forty-eight hours from the arrest, an investigating officer may, if he reasonably believes that the interests of justice so require and there is no serious prejudice to the person arrested, instead of formally charging that person, file a written request for an extension of the investigation, as provided in section 129.

*Request for extension*

129. The request mentioned in section 128 shall be for an extension of the investigation for a specified number of hours, not exceeding another forty-eight hours, deemed strictly necessary for the conclusion of the investigation. For good and sufficient reasons, the Court may, subject to what is stated in the following sections, authorise the continued detention in police custody of the person brought before it.

*Grounds for prosecution*

130. (1) The Court shall hear the investigating officer and any other officer under oath in the presence of the person arrested on -

(a) the reasons for believing the continued detention of that person to be necessary for the purposes of such further inquiries;

(b) the nature to the offence, for which the person to whom the application relates has been arrested;

(c) the general nature of the evidence on which that person was arrested;

(d) what inquiries relating to the offences have been made by the Police and what further inquiries are proposed by them if the revealing of such information is not prejudicial to the investigation.

(2) Proceedings may be held with closed doors, if the interests of justice or of the person detained so require.

#### *Person arrested to be heard*

131. Having heard the investigating officer and any other officer as provided in section 130, the Court shall hear the person arrested on the reasons why he believes the application should not be allowed or why he believes that he should be released conditionally or unconditionally.

#### *Decision of the Court*

132. Following any further submissions from the investigating officer or from the person arrested the Court shall give its decision immediately at the end of the sitting, allowing or rejecting the application. If the Court allows the application, the person arrested may be detained by the Police for a further period to be stated in the decision, not exceeding forty-eight hours from the lapse of the first period of forty-eight hours from the time of the arrest. If the Court rejects the application, the person arrested shall be released conditionally or unconditionally as the Court may order, on the lapse of forty-eight hours from the time of arrest, unless the officer decides to charge the person forthwith within the period of forty-eight hours which may still be running.

#### *Indispensable conditions for extension*

133. (1) An application under this section shall only be allowed if an Enquiring Magistrate confirms that –

(a) the further detention without charge of the person arrested is necessary to secure or preserve evidence relating to an offence for which he is under arrest on a reasonable suspicion or to obtain such evidence by questioning him;

(b) the offence for which he is under arrest is a crime liable to the punishment of imprisonment; and

(c) the investigation is being conducted diligently and expeditiously.

(2) Nothing in this section shall imply that a person arrested may continue to be detained notwithstanding that there are no longer any valid reasons justifying the continued detention.

#### *Conditions for release*

134. In laying down conditions for release as provided in section 132 the Court may only impose those conditions which it considers as strictly necessary not to prejudice the investigation.

### **TITLE III - INTERFERENCE WITH PRIVACY**

#### *Limits for interference with communications*

135. (1) The power of the Police to intercept or interfere with any communication, hereinafter referred to as "power of interception", shall remain to be regulated by law, and shall only be lawful within the limits imposed by law.

(2) Nothing shall be held to have been unlawful if done under the powers of the prevailing law or practice at the time, even if the law was subsequently repealed or amended.

(3) The communications to which the power of interception and interference apply include those transmitted by a service of telephone, telegraphy, or a computer network, electronic mail, or other electrical, electronic or electromagnetic means, even if recorded, and to written or printed material normally delivered through a postal service or a courier service.

#### *Authorisation*

136. The Police may proceed with any interception only if their request is duly authorised according to this Code.

#### *Grounds*

137. The power of interception may be requested only if there are reasonable grounds for believing -

(a) that offences as mentioned in section 138 are being committed or that acts preparatory for their commission are being perpetrated; and,

(b) that such an interception would prevent the commission of such offences or constitute indispensable information for their investigation or the conviction of the offenders.

#### *Crimes subject to interception*

138. The offences to which this power of interception applies are -

- (a) voluntary offences punishable with more than three years imprisonment, which would otherwise be difficult to detect or which, in the circumstances of a particular case are proving difficult to detect;
- (b) crimes against the security of the State, its democratic institutions, or its economic well-being;
- (c) crimes involving illegal drugs and psychotropic substances;
- (d) crimes relating to paedophilia and pornography for commercial purposes;
- (e) crimes relating to arms and explosives;
- (f) smuggling;
- (g) threats and molestation through a telephone or postal system.

*Request by Commissioner*

139. (1) The right to request authorisation for any interception or interference is vested in the Commissioner personally or his deputy in his absence, even if temporary.

(2) The request shall be in writing and shall indicate clearly the reasonable grounds on which it is based, and shall be delivered personally by the Commissioner or his deputy to the Attorney General.

*Reference to Attorney General*

140 (1) The Attorney General shall take cognizance of the request.

(2) The Attorney General may request that the application be confirmed on oath, or that the Commissioner gives orally any further information that may be required.

(3) The Attorney General shall transmit the request to one of the Judges of the Superior Courts.

*Judge's Warrant*

141. (1) The Judge shall, if he accedes to the request, issue a warrant authorising such interception or interference, and may impose such limitations as he may deem fit.

(2) Such a warrant shall remain valid for forty days, but may be renewed upon an application for its renewal.

(3) A copy of the warrant shall be transmitted through the Attorney General to an Enquiring Magistrate to enable him to monitor the operations of interception or interference, and the Enquiring Magistrate shall refer to the Judge any irregularity or excess in the execution of the warrant.

*Assistance*

142. (1) In the execution of the powers conferred by any such warrant, the Commissioner may be assisted by other police officers to whom specific functions, are delegated and shall utilise the equipment of the Force.

(2) Where such equipment is not easily available, the Commissioner may requisition against compensation, by an order under his hand, the equipment of any other body running a service of telecommunications as referred to in section 135 and may give instructions to employees of any such service or of a postal service referred to in the said section who shall comply with such instructions and shall be bound by professional secrecy.

*Records of delegation*

143. (1) The Commissioner shall keep a register of all names of persons who have been delegated or ordered to carry out such interception or interference, and shall on each occasion register the duration of any such interception or interference, and any other relevant detail.

(2) Such records shall be kept by the Commissioner, and shall be only available to a Judge or the Attorney General and the Enquiring Magistrate, if any question arises as to the strict adherence of the Commissioner to a warrant mentioned in this Title.

*Attestation regarding warrant*

144. A decree of a Judge or a certificate from the Attorney General shall constitute final proof that the warrant has been executed within the limits of the law and therefore may not be contested in any court.

*Records of interceptions*

145. (1) The Commissioner shall record and copy any interception or interference, by such means as are compatible with the source of communication intercepted.

(2) In all cases, the Commissioner or the officer delegated by him shall certify the authenticity of such copies.

(3) The Commissioner shall note in his register, as mentioned in section 73, what copies have been made and their number, and how they are being preserved and stored by him.

*Production as evidence*

146. The Commissioner may, by an order under his hand and countersigned by an Enquiring Magistrate, authorise that relevant parts of a recorded interception or a copy of a document acquired as stated in this section be exhibited in any proceedings for any offence covered by the warrant.

*Privilege*

147. Notwithstanding the provisions of the last preceding section, in any proceedings, before any Court or Tribunal, no order may be given to the Commissioner or to any officer or other person who participated in an interception or interference,

(a) to exhibit any warrant or any recording or document in its entirety as mentioned in the preceding section, unless there is his consent and that of an Enquiring Magistrate;

(b) to answer any question, whether in chief or cross examination, which tends to imply or to suggest that a warrant has been issued, or that action was taken under such a warrant, or that the warrant was not strictly adhered to.

*Prohibition of questions*

148. (1) The Court or Tribunal shall always prohibit the putting of any question seeking to elicit any information as is provided for in section 147 of this Code.

(2) Any submissions which tend to influence those who have to judge on the facts that the failure to disclose is indicative of an irregularity or malpractice, or that there was a violation of this Title, may invalidate the procedures, and the Court or Tribunal may condemn the person making such a submission to bear the costs of proceedings which have to be annulled.

(3) Notwithstanding the provision of any other law, the Police and the Attorney General shall always have the right to appeal to a higher Court, if a first Court or Tribunal allowed such a submission.

*Applicability of privilege*

149. (1) The provisions of the preceding section shall also apply where the Police have received information from a private person, whose identity has to be kept secret.

(2) The provisions relating to the interception and utilisation of communications mentioned in this Title shall not apply to any conversation or epistolary exchange between a person and another person, one of whom is exercising a profession and covered by professional secrecy as referred in section 642 of the Criminal Code.

**TITLE IV - POWERS OVER PRIVATE PROPERTY**

*Limits*

150. Saving the special provisions of any other law allowing the interference with the enjoyment of private property, a police officer may interfere with such enjoyment only if authorised by law, and within such limits.

*Definition of powers*

151. The power to interfere with a thing includes:

- (a) the power to remove and hold a thing which may be in breach of the law, and -
  - (i) has not been removed voluntarily by its owner; or
  - (ii) has not been removed by the owner within the time allowed in a written intimation served on him ordering him to remove the thing; or
  - (iii) the owner of which cannot be found; or
  - (iv) which needs to be removed as a matter of urgency;
- (b) the power to demolish any building or structure which is the cause of imminent danger to the public.

*Regulations*

152. Regulations made under this Code may establish the cases in which such interference is permitted, and under what conditions and safeguards to the owner, and furthermore may lay down the conditions for the release of anything removed, including the payment of expenses incurred for its removal.

*Exemptions*

153. (1) The Force shall not be held responsible for any damages to or loss of the property, where it results that the Police acted in the lawful execution of any law, and such exercise was reasonably justified in the circumstances.

(2) Similarly the Force shall not be held responsible for damages, when these are caused in order to preserve life or prevent a graver damage to property.

**TITLE V - THE USE OF FORCE***Proportionality*

154. Police officers may use such moderate and proportionate force to ensure the observance of the laws.

*Remedy of last resort*

155. The use of force is a remedy of last resort, and shall only be used when it is evident that all other remedies would be of no avail, and shall only be used for the duration that is strictly necessary.

*Relevant time*

156. If any question arises as to the reasonableness of the use of force in any Court or Tribunal, the circumstances prevailing at the time when force was used shall be the criterion for examining such reasonableness.

*Arms*

157. (1) In the execution of its duties the Force may use, in exceptional circumstances, fire-arms and other offensive weapons or materials.

(2) When assessing the exceptional circumstances mentioned in subsection (1) above one should take into consideration the prevailing conditions at that particular time, when the use of fire-arms, or weapons or other materials becomes inevitable to preserve the life of a police officer or others, or to avert an imminent danger of widespread violence.

*Responsibility*

158. Saving any criminal or civil liability under any other law, it shall be considered as an offence against discipline if a police officer uses force in revenge.

*Codes of Practice*

159. Regulations may be made regulating the use of force and fire-arms.

*General Saving*

160. These provisions of this Part shall be in addition to any other power conferred by any other law.

**PART VII**

**CONTROL AND ACCOUNTABILITY**

**TITLE I - ENQUIRING MAGISTRATES**

*Establishment of Office*

161. (1) There shall be appointed Enquiring Magistrates, whose powers, duties, and functions shall be those established in this Code, in the Criminal Code and in any other law.

(2) An Enquiring Magistrate is not empowered to sit in any court.

(3) The office of an Enquiring Magistrate is a public office and his remuneration shall be a charge on the Consolidated Fund, and shall be regulated under the votes of the Judiciary in the Annual Estimates of the Government.

#### *Appointment*

162. The appointment of an Enquiring Magistrate shall be made by the President acting on the advice of the Prime Minister.

#### *Qualifications*

163. (1) A person may be appointed an Enquiring Magistrate if he is in possession of the warrant of Advocate or Legal Procurator.

(2) Regulations may be made to establish the number of years of practice in the respective professions that may be required for the appointment of an Enquiring Magistrate.

#### *Security of tenure*

164. An Enquiring Magistrate may not be removed from office except on the advice of the Council for the Administration of Justice addressed to the Prime Minister who shall act in accordance with section 110 of the Constitution.

#### *Oath of office*

165. Before entering upon the exercise of his functions, an Enquiring Magistrate shall subscribe to the oath of allegiance and to the oath of office as specified in the Third and Fourth Schedules to this Code.

#### *Incompatibilities*

166. (1) An Enquiring Magistrate is debarred from the private exercise of a profession, whether directly or indirectly.

(2) An Enquiring Magistrate cannot act for the prosecution in any case before the Courts.

(3) An Enquiring Magistrate shall refrain from any external activity which is incompatible or not consonant with his functions.

#### *Abstention*

167. An Enquiring Magistrate shall abstain from the exercise of his functions in all those cases, in which he knows or has reason to believe that there are similar grounds to those mentioned in paragraphs (a),(b).(c) and (e), and so far as applicable, paragraph (d) of section 734 of the

Code of Organisation and Civil Procedure, or on the ground that the matter concerns an offence committed to his prejudice or to that of his spouse or of any other person related to him by consanguinity or affinity in any of the degrees mentioned in paragraphs (a) and (b) of the said section.

#### *Independence and Impartiality*

168. (1) In the exercise of any powers conferred upon him by law in terms which authorise him to exercise that power in his individual judgement, an Enquiring Magistrate shall not be subject to the direction or control of any other person or authority.

(2) An Enquiring Magistrate not acting as "Advising Magistrate, shall exercise his functions with impartiality in the supreme interests of justice.

#### *Power to administer oaths*

169. An Enquiring Magistrate shall have the power to administer oaths.

#### *Professional Secrecy*

170. (1) An Enquiring Magistrate shall be bound by the duty of professional secrecy except to the extent that disclosure may be necessary in the cause and for the proper exercise of his duties as established by law.

(2) An Enquiring Magistrate shall not release, whether directly or indirectly, any information to the press or to other media of information, nor may he accept to be interviewed on any matter connected with his functions.

#### *Seniority*

171. When more than one Enquiring Magistrate have been appointed, the earliest appointed shall be considered as the Chief Enquiring Magistrate, although his status shall always be that of first among equals.

#### *Decrees*

172. Wherever any law lays down that the Enquiring Magistrate shall order by a decree, such decree shall clearly and succinctly explain the grounds on which it is based.

#### *Registry*

173. There shall be a registry for Enquiring Magistrates, which shall be distinct from that of the Police. Any person who is assigned to perform any duties in such an office shall be bound to take the oath of secrecy.

*Filing of Applications*

174. Wherever the law lays down that an application may or shall be made to an Enquiring Magistrate such application may be filed in the registry of the Enquiring Magistrates, transmitted by facsimile or sent to the Enquiring Magistrate by registered post. Where an application has been transmitted by facsimile the original shall be filed in the registry of the Enquiring Magistrates or sent by registered post as aforesaid on the same day or on the next following working day.

*Hearings in camera*

175. Wherever the law lays down that a warrant must be sought by the Police from a Magistrate, the Enquiring Magistrate may personally hear the police officer in camera and be satisfied of the grounds adduced before issuing such a warrant.

*Restriction on delegation*

176. An Enquiring Magistrate may not delegate any of his functions to any other person, unless according to an express provision of law he is authorised to do so.

*Duties under this Code*

177. The Enquiring Magistrate shall seek to guarantee, by his impartial and institutional function, the genuineness of any material evidence existing on the scene of any alleged crime or of any experiment that may be necessary, and all the other duties assigned by this Code.

*Duties under other laws*

178. The Enquiring Magistrates may be assigned other duties as established by law.

*Scientific Experiments*

179. The Enquiring Magistrates through the Chief Enquiring Magistrate may give such instructions and directions of a general or specific character to the administrative head of any government forensic laboratory providing its service to the administration of justice so as to guarantee the fair and impartial functioning of the said laboratory.

*Regulations*

180. Regulations may be made up by the Minister responsible for justice, for the proper functioning of anything contained under this Part of this Code, including regulations regarding the preservation of any material evidence collected on the scene of a crime and the images by photography or video-recording and the preservation of such records.

*Saving*

181. The failure to make any such regulations shall not debar the Enquiring Magistrates from entering upon the duties of their office and the performance of their functions, as laid down in this Code or the Criminal Code.

*Relations with the public*

182. Where a person has an interest in an investigation regarding an offence of which he may be a victim or a witness, such person may communicate in writing with the Enquiring Magistrate.

*Retrieval of property*

183. Any person, from whose possession any item of property has been seized by the Police in the course of an investigation or otherwise having an interest in the same property, may by application request the Enquiring Magistrate to release in his favour the property so seized and the Enquiring Magistrate shall decide on the request after having heard the reply of the Police.

*Judicial Officer*

184. An Enquiring Magistrate, for the purpose of article 5(3) of the First Schedule of the European Convention Act (Cap. 319) shall be a judicial officer.

## **TITLE II - THE POLICE BOARD**

*Establishment of Police Board*

185. (1) There shall be a Police Board, composed of such members as shall be appointed annually by the President not being more than five members, one of whom shall be the Chairperson.

(2) The members shall hold office for a period of one year from the 1 January of the year for which they are appointed and may be re-appointed.

(3) If any vacancy in the Board occurs during the year, on account of death, resignation, or for any other cause, the President shall, as soon as practicable, appoint another person to fill the vacancy:

Provided that the Board and the members shall act notwithstanding any such vacancy.

(4) In making any appointment the President shall act in his own deliberate judgement, after seeking the advice of any person he deems fit to consult.

*Functions of Board*

186. The Police Board shall have the following functions -

(a) to inquire into and report expeditiously on any complaint which it receives, or any complaint received by the Minister, or even raised in the media, regarding the conduct of the Force or any of its members;

(b) to inquire into and report on any complaint made to it by an officer against treatment which he deems prejudicial in his regard or which is discriminatory, or causes him undue distress;

(c) to monitor the internal police disciplinary sittings and inform the Minister of its findings, with the power for any member to attend as representative of the public at any session held by the Commissioner in the exercise of disciplinary proceedings delegated to him as mentioned in section 31;

(d) to satisfy itself as to the treatment of the public by the Force, the upkeep of amenities to which the public has access, and to supervise and visit any cells where persons are detained, and to report thereon to the Minister,

(e) to monitor the workings of the Internal Affairs Unit within the Police Force and to refer to it any such matters that it deems fit;

(f) to extend its functions to the activities of any civilians attached to the Police Force within the jurisdiction conferred by the preceding paragraphs;

(g) to perform any other function that may be assigned to it by regulations, or by an ad hoc written instruction from the Minister, and to send any report as soon as completed to the Minister, to the Social Affairs Committee of the House of Representatives and to the Commissioner of Police.

#### *Meetings of Board*

187. (1) The Police Board shall meet at least once a month at the place that may be established for such meetings.

(2) The quorum at meetings shall be half the number of members plus one.

(3) Any decision may only be taken on the majority of the votes of the members present and voting, with the Chairman having the casting vote in the case of equality of votes.

(4) Minutes shall be kept by the Secretary of the Police Board, who is also the custodian of all relevant documents, which shall be read over and confirmed and signed by the Chairman and the Secretary at the end of the meeting.

(5) The Board shall otherwise regulate its own procedure.

#### *Appearance before Board*

188. (1) The Commissioner or any police officer or any civilian employee may be requested to appear before this Board and give such answers to questions and to provide information that may be relevant for the Board in the execution of its duties.

(2) The complainant may also be asked to attend before the Police Board, and give further information.

*Delegation of functions*

189. The Police Board may in conjunction with the Internal Affairs Unit assign to one of its members the duty to collect information and evidence and such member shall report back to the Board.

*Decisions*

190. (1) In its decisions, the Board may recommend such action that it deems fit.

(2) Where it results that the matter may involve criminal proceedings, the Police Board shall refer its findings to the Attorney General and to the Commissioner of Police.

*Exceptions*

191. (1) Notwithstanding the provisions of this Title, the Police Board or any of its members shall not have the right to inspect any document or acquire any information from any police officer who, had such document been requested by a Court of law, would have been exempted from the production of any such evidence.

(2) In like manner no document or information that a criminal investigation is being conducted on a particular person connected with a criminal investigation shall be made accessible to the Board or to any member thereof.

*Internal Affairs Unit*

192. (1) In this Title the word Internal Affairs Unit means that internal department within the Police Force entrusted with the internal supervision of the workings of the Force and its accountability by whatever name such Unit may be called.

(2) The Internal Affairs Unit shall be set up within the Force to investigate any complaint on police officers made against them by members of the public or by one member of the Force against another and to receive and to examine any testimonial for commendation from the public regarding a police officer in the execution of his duties.

*Regulations for Board*

193. The Minister may prescribe additional provisions regarding the Police Board in its procedure, or remedies.

*Reports by Board*

194. (1) The Police Board shall submit a report of its work at intervals of six months to the Minister and to a Committee of the House of Representatives to be designated and to the Commissioner of Police.

(2) The Police Board may publish a synthesis of its report, observing due discretion where the interests of private individuals so require, especially by not revealing the names or identity of individuals.

(3) The members of the Board shall be bound by the provisions of the Professional Secrets Act.

#### *Abstention of members*

195. A member of the Police Board shall abstain in any case in which he may have a pecuniary, professional, or other personal interest, or in which a relative, whether by affinity or consanguinity up to the fourth degree inclusively, is in any way involved.

#### *Unjustified absence*

196. A member who absents himself from four meetings without a valid reason shall be considered as having resigned his post, and the Secretary shall inform the President accordingly.

#### *Offences*

197. (1) It shall be an offence against discipline if it is proved to the Police Board that a person is subsequently victimised or treated in a vexatious manner, whether directly or indirectly, for having made a complaint to the Police Board, and in any such case, the Police Board shall ex officio report the matter to the Public Service Commission.

(2) The provisions of sub-section (1) shall also apply to civilian officers connected to the Police Force.

(3) For the purposes of sections 100 and 101 of the Criminal Code, the Police Board shall be deemed "a competent authority".

### **TITLE III - OTHER CONTROLS**

#### *Liaison with Local Councils*

198. (1) The inspector in charge of a division shall hold regular meetings at suitable intervals with the Local Councils of each locality in his division to discuss any matters which fall within the responsibility of the Police.

(2) The Inspector shall hold a meeting as requested by the Local Councils within one week from such request.

(3) Minutes of such meetings shall be kept, and the progress made between one meeting and another shall be monitored by the Superintendent in charge of the district and the Assistant Commissioner in charge of the Region.

*Enquiries by Commissioner*

199. (1) The Commissioner may hold an enquiry into any matter concerning the administration of the Force, which he considers serious enough to require such an investigation.

(2) In the conduct of any such enquiry, the Commissioner shall have the same powers as mentioned in subsections (3), (4) and (5) of section 31 of this Code.

(3) An enquiry shall be without prejudice to any action that the Police Board established by this Code may take, and the Police Board may recall and pursue the enquiry if it falls within its competence.

## **PART VIII**

### **INVESTIGATIONS AND PROSECUTIONS**

*General rules about statements*

200. (1) Subject to the rules that may be established regarding the viva voce recording of interrogations, a police officer shall always interrogate a suspect in the presence of another witness, who shall not leave the interviewing room until the conclusion of the interview. If need be, the interview must be suspended.

(2) If a written statement is to be taken, then the investigating officer shall give the first option to the suspected person to write that statement under his own hand.

*Caution and parameters of caution*

201. (1) Before taking a written or a recorded statement, and in order to furnish additional proof that the statement was made voluntarily, the investigating officer shall caution the suspect.

(2) The caution shall consist in reminding the suspect:

(a) that it is his constitutional right to remain silent and not to answer any question;

(b) that he has the right for legal advice, as provided for in this Code from an Enquiring Magistrate;

(c) that he has to consider whether it is more beneficial for him to bring forward at that stage any explanation or defence against the facts alleged against him; and

(d) that everything that he says may be produced in evidence, and if he opts to remain silent according to his rights, the police will not be precluded from bringing in evidence the questions put to him.

*Printed form of caution*

202. The Commissioner of Police shall cause a standard form incorporating the wording of the caution, in Maltese and English to be printed, together with a translation in the more common languages, which according to experience, are spoken by suspects.

*Form to be signed*

203. A suspect shall be required to sign that he has received a copy of the printed form of the caution, and if he refuses then the fact is registered on the copy of the caution with an endorsement of the investigating officer and any witnesses present.

*Certain questions*

204. An investigating officer who had interviewed the suspect at an earlier stage before proceeding to record a statement, shall put to the suspect any relevant reply or failure or refusal to answer a question previously made, and shall ask him:

- (a) whether he confirms or denies making that reply or failing or refusing to reply;
- or
- (b) whether he confirms or denies its substance, and
- (c) whether he wishes to add anything.

*Information as to offence*

205. The investigating officer shall always inform the suspect prior to any recorded statement of the offence which is being investigated.

*When the suspect does not speak Maltese or English*

206. (1) A statement by a suspect who declares that he does not understand or speak Maltese or English shall not be taken without the intervention of an interpreter in a language understood and spoken by the suspect.

(2) The interpreter may be a member of the Police Force or even the investigating officer if conversant with a language understood by the suspect.

*Deaf or sick suspects*

207. The Commissioner shall draw up rules concerning interrogation, where there is reason for believing that the person is sick or deaf. The investigating officer shall not proceed to an interview without the prior intervention and certification of a medical practitioner, as to the suitability of conducting the interrogation.

*Juvenile Suspects*

208. When the arrested person has not attained the age of sixteen years, one of his parents or guardian shall be allowed to be present during the interrogation, provided that such parent or guardian does not through his misbehaviour disrupt the proper conduct of the investigation.

*Breaks*

209. (1) Any break taken during the interview must be duly recorded either in the written statement or on recording equipment as to the time when the interview was suspended and resumed. The investigating officer shall indicate at the outset what breaks are scheduled and are to be observed.

(2) The suspect has the right to demand reasonable breaks during the interview:

Provided that a suspect shall not be allowed repeated breaks which tend to hamper the proper and fair management of the interview.

*Reading over and signing*

210. (1) At the conclusion of the interview, the investigating officer must give an opportunity to the suspect to add anything or clarify anything said previously.

(2) If the suspect declares that he is able to read, then the investigating officer shall hand over a copy of such a statement to the suspect before he is asked whether he wishes to sign it or not.

*Loyalty to Court*

211. (1) A prosecuting officer is an officer of the Court and as such is in duty bound to behave dispassionately and with propriety, and must show due respect to the Court.

(2) A prosecuting officer may not submit to the Court, even if not under oath, any fact which he knows not to be true, or knowingly misleads the Court by any submission as to the interpretation of the law or of the facts.

(3) Any such conduct as is mentioned in subsection (2) of this section shall be, without prejudice to any other proceedings, an offence against discipline.

(4) A prosecuting officer, who feels aggrieved that he has been unfairly treated or insulted in the execution of his duties when before a court, shall lay his complaint with the Commissioner for any action that may be taken before the Commission for the Administration of Justice.

*Vexatious Prosecutions*

212. It shall be an offence against discipline for a police officer to charge before the courts a suspect with an offence which is manifestly unfounded or which cannot be reasonably deduced from the evidence before him. The provisions of Part IV of this Code shall apply in any such case.

*The Police and the media*

213. (1) The Police shall not give any details to the press regarding any person arrested on a reasonable suspicion that he committed an offence, or subject to section 214 that he is being sought for such an offence.

(2) The Police shall not issue to the press, either directly or indirectly, any information about the identity of the person who is about to be charged before the courts, or of any investigation in situ concerning any suspect.

*Co-operation from the public*

214. Notwithstanding the provisions of the preceding section, the Police may issue warnings about any person who is at large and to whom other people may fall a victim, indicating enough details for the identification of such a person and his mode of behaviour or system of conduct.

*Offence against discipline*

215. Violations of section 213 of this Code shall be deemed as an offence against discipline.

**PART IX****POLICE RECORDS***Registration of convictions*

216. (1) There shall continue to be a Central Records Office at the Police Headquarters for the registration and recording of convictions.

(2) The convictions that shall henceforth be registered shall be any of the following:

(a) where a person was sentenced to imprisonment or detention;

(b) where a sentence of imprisonment or detention was suspended in its execution, either by the Court or through the Prerogative of Mercy under the Constitution;

(c) where a person was bound over, in terms of Chapter 152;

(d) any offence for which a licence has been suspended or revoked;

(e) any offence against the Customs Ordinance;

(f) any offence for which the Court imposed a fine (multa) in lieu of a custodial sentence.

*Registration of offences*

217. (1) Registration shall be effected by reference to the title of the offence and the date of commission, the Court which delivered the sentence, (with an indication of the Hall or Judge of the Criminal Court), the duration of the custodial sentence or any other order of the Court.

(2) Registration shall be by the number of the identity card of the person found guilty, or of his passport if he is not a Maltese national, together with such other details as may be required to establish his identity.

*Registration of minor sentences*

218. Where a person is persistently being brought before the Courts for minor offences, then the police may register and keep at a local or branch level such records of convictions, to be produced in Court, if the need arises or the Police consider that such repeated convictions should be brought to the notice of the Court.

*Co-ordination of probations etc.*

219. (1) The Central Records Office shall note the first request by a prosecuting officer for a request for the full criminal record of a person subject to a probation or a suspended prison sentence, and shall note the name of the police officer who made the first request.

(2) In order to avoid any possible double application of a probation or of a suspended sentence, in any subsequent request by another police officer, his attention shall be drawn to the fact that a prior request had been made, giving the name of the other officer, and these facts shall also be annotated on the second or subsequent record issued.

*Returning of fingerprints etc.*

220. Any person acquitted by a final judgement of a court may, within one year from the date of such acquittal, demand that all samples, fingerprints and documents taken from him and any recordings of his voice or photographs or video recordings of him be returned to him or destroyed in his presence.

*Request for return*

221. (1) The demand mentioned in section 220 shall be made to an Enquiring Magistrate by application.

(2) The Enquiring Magistrate, if he accedes to the request, shall ensure that all copies be so returned or destroyed in his presence.

(3) The Enquiring Magistrate may delay the return or destruction of any such material, if it is needed in connection with any other investigation.

#### *Request by person arrested*

222. An application as provided in the foregoing sections may also be made by a person who has been arrested but not charged. In such a case the application may only be allowed after it has been served on the investigating officer, who shall have the right to reply thereto, and if the period of prescription of the exercise of the criminal action in respect of the offence investigated has lapsed.

#### *Disposal of unclaimed samples*

223. Where the person acquitted fails to apply as stated in section 220, the Police may transfer any thing as is therein mentioned to the Police Academy, established under this Code, if such material may have a didactic or experimental value.

#### *Police Archives*

224. The Police may hold, process and classify any information, preserved by any system whatsoever, including computer databases, relevant to the commission of crimes, whether in Malta or abroad.

#### *Extent of information*

225. Such information may relate to fingerprints, photographs, measurements, blood-samples, intimate or non-intimate samples, patterns of criminal behaviours and methodology in the perpetration of an offence and similar details for the purposes of future identification of offenders.

#### *Right of comparison*

226. The Police may compare any such information to establish evidence in any investigation.

#### *International co-operation*

227. The Police are authorised to co-operate with any similar public investigative force in any country either directly or through regional or international police organisations.

#### *Illegal use of data*

228. The use of data other than for the purposes allowed by law shall, without prejudice to any other law, constitute a serious offence against discipline.

## PART X

### WITNESS PROTECTION PROGRAMME

#### *Witness protection*

229. In order to combat and prosecute transfrontier or locally organised crime, or crimes which would otherwise remain unpunished, for which evidence of a participant in such crime is indispensable, the Commissioner may set up a witness protection programme, hereinafter referred to as "the programme".

#### *Entitlement to programme*

230. A person may become entitled to benefit under the programme -

(a) if he participated in any organisation or group of persons who have committed or are organised to commit any crime; or

(b) has participated in the commission of a crime punishable in its maximum with at least seven years imprisonment;

and reveals to the Police sufficient information to guarantee a reasonable probability of a conviction of other participants, when eventually prosecuted.

#### *Applicability of programme*

231. The programme shall only be applicable to those who declare that they will testify during the trial and any benefit granted shall be forfeited if the witness refuses to testify.

#### *Evidence viva voce*

232. Notwithstanding the provisions of any other law, in order to protect a person under the programme, such person may be allowed to give evidence *viva voce* during the trial by contemporaneous television transmission, under such rules as may be prescribed.

#### *Recommendation of application*

233. (1) In deciding whether to recommend the application of the programme for any witness the Commissioner shall take into account whether the witness provides independent and relevant circumstantial, direct or documentary evidence to corroborate his version.

(2) Where the Commissioner is of the opinion that the programme is applicable to a witness, he shall apply in writing to the Attorney General, stating the reasons for such a request with all supporting documents.

(3) The Attorney General in his individual judgement in the exercise of his functions shall decide on any such request, and such a decision may not be questioned in any manner in any court, and if he approves, then the witness shall be deemed to be a protected witness under the programme.

### *Suspension of criminal proceedings*

234. A protected witness shall not be subjected to any criminal proceedings in connection with the same facts, before the proceedings in which he is a witness shall become *res judicata*.

### *Suspension of prescription*

235. The running of prescription in respect of the criminal action against the protected witness shall be suspended from the date that the Attorney General decides that the witness shall be deemed to be a protected witness until the case in which he is a witness becomes *res judicata*.

### *Preventive arrest*

236. Notwithstanding the provisions of the preceding section, the time spent by a protected witness in protective custody until judgement is given against him shall be counted as part of any sentence of imprisonment or detention imposed in a sentence against him, provided that he retains the status of a protected witness until sentence is given in the case against him.

### *Protection under programme*

237. The programme may provide for such protection to the life and property of the witness and that of his family in the ascending or descending or collateral line, as the Commissioner may deem appropriate and may include provisions for regular remuneration in particular cases.

### *Agreement with foreign countries*

238. The Minister responsible for the Police may enter into such agreements with any foreign government to grant assistance, on a reciprocal basis, for witness protection programmes, and to enhance the possibilities of affording greater protection to a witness by being transferred to another country, and of receiving protected witnesses, under similar programmes from other countries.

### *Revocation of status of protected witness*

239. (1) The Attorney General may at any time, either *ex officio* or on an application by the Commissioner, revoke the status of a protected witness under the programme, where it results that the witness is not abiding by the conditions of the programme, or that his evidence or version of the facts, or any circumstances indicated by him as corroborating evidence, are manifestly false.

(2) In the same manner, the witness shall be deprived of his status of a protected witness if he commits, or is reasonably suspected of having committed, any other crime, not being of an involuntary nature, during the period when he is under the programme, which crime is punishable with more than three years imprisonment in its maximum.

*Requests to Attorney General or to persons in authority*

240. A request by a person to be considered a protected witness may be made to the Attorney General, or to any person in authority who shall refer it to the Commissioner of Police. The Attorney General or other person in authority may not be brought as a witness against the person requesting the programme, or to prove that he made any such request.

*Applicability of benefits*

241. The benefits under this Code or under any regulations made thereunder shall not apply to a person who results to be the head of the criminal organisation or group, or the chief instigator or beneficiary of the crime.

*Extension to ordinary witnesses*

242. (1) A witness protection programme may also be extended to a witness in any criminal proceedings in respect of a crime as is mentioned in section 230 and who has not participated in any way in such crime.

(2) Regulations may be made to afford greater protection to the personal safety, sense of modesty or psychological security of minors, victims of sexual offences and other witnesses, who may, on account of special circumstances, require such protection.

## **PART XI**

### **POLICE ACADEMY**

*Statute*

243. There is hereby established the Police Academy, hereinafter referred to as the "Academy" which shall have a distinct juridical personality from the Malta Police Force.

*Aims*

244. The aims and objectives of the Academy shall be -

(a) to train recruits, officer cadets and serving police officers to fulfil their role in the Malta Police Force, with ability, knowledge and expertise, integrity and impartiality, effectively and efficiently;

(b) to instil and strengthen concepts of professionalism in policing skills and core operational functions, and to train officers in modern managerial skills;

(c) to initiate officers in their own further studies which are relevant to their role in the Force, such as psychology, behavioural sciences, scientific investigation, local and foreign case-law, comparative law, and languages.

*Board*

245. (1) The Academy shall be governed by a Board composed of the Permanent Secretary at the Ministry responsible for the Academy, or his representative, the Commissioner or his delegate, the Director of the Institute of Forensic Studies or his delegate, one member appointed by the Minister responsible for the Police, one appointed by the Minister responsible for Justice, a Magistrate appointed by the Chief Justice, the Attorney General or his delegate, and a member appointed by the Faculty of Laws at the University of Malta.

(2) The Board shall have the general direction of the Academy, its policies, the setting of objectives and targets, and the monitoring of its operations.

(3) The Chairman shall be the juridical representative of the Academy.

*Director and Staff*

246. (1) The Academy shall be administered in its day to day functions by a Director, who shall be appointed by the Minister responsible for the Police on such conditions as may be established.

(2) The academic staff, whether full-time or regular part-time, shall be appointed in the first place after a call for applications and eventual selection by the Board, or subsequently by nomination from the Board.

(3) The Director shall be responsible for the setting up of the courses and curricula of the Academy, and may engage lecturers on specific subjects, which appointment does not extend for more than three lectures in any particular year.

(4) The Director shall be responsible for non-academic staff, for the day to day management of the finances of the Academy, and such other administrative matters.

(5) The Director shall also be responsible for organising such seminars, public lectures and discussions, which tend to promote the better functioning of the Force and the spreading of correct information to the public about the justice system.

**PART XII****PROFESSIONAL ASSOCIATIONS***Right to organise*

247. (1) Police officers may form their own professional association or associations.

(2) A professional association may be formed for the promotion of the welfare and professional efficiency of the members of that association, including matters concerning their hours of duty, leave, pay and allowances, pensions and other conditions of service and rules of discipline in general, and for the defence of individuals in disciplinary proceedings.

(3) In any event, not more than two professional associations may be set up, one for the senior ranks, that is from the rank of inspector upwards, and the other for all other ranks.

#### *Voluntary membership*

248. (1) Membership of an association is voluntary.

(2) No person may be a member of any such association unless he is a member of the Force.

(3) Notwithstanding subsection (2) above, an association may engage employees or advisers from outside the Force.

#### *Independent bodies*

249. An association and every committee or board thereof shall be entirely independent of and unassociated with any body outside the police service:

Provided that there shall be no restriction on the association to affiliate itself with similar international organisation of police forces, or to collaborate with an association in Malta the members of which are retired members of the Force.

#### *Registration*

250. The registration of a professional association shall be with the Commissioner, who shall not refuse any such registration, provided that the statute thereof is not in conflict with this Code, and the association represents not less than thirty per cent of the whole Force, or fifty per cent plus one more member of any of the categories listed in subsection (3) of section 247 of this Code.

#### *Malta Police Association*

251. Until any other association is formed, the Malta Police Association shall continue as established with the Statute set forth in the Fifth Schedule.

#### *Substitution of Schedule*

252. (1) The Malta Police Association, may substitute its own statute to that in the Schedule, which shall be submitted to the Commissioner to obtain the approval that it conforms with this Code, after which it shall be submitted to the vote of the members of the association, which shall determine such amendments or substitution by a majority of all the members.

(2) When the Statute is rewritten or amended, then the Statute contained in the Fifth Schedule shall be deemed to be so substituted or so amended.

*Association dues and rights*

253. (1) The Commissioner shall continue to retain the fees according to Legal Notice 14 of 1960 from the salary of a police officer, as his membership fee in the Association until such time as a member may by a letter under his hand inform that he has resigned from being a member of the Association.

(2) The Commissioner may, compatibly with the exigencies of service, consider that any work done by a police officer in connection with a professional association be part of his Police duties.

**PART XIII****PENSIONS***Minister may make pension regulations*

254. (1) It shall be lawful for the Minister responsible for the Police with the concurrence of the Minister responsible for Finance to make, and when made, to vary and revoke regulations for the granting of pensions to persons who have served in the Police Force or to their legal representatives or dependants:

Provided that until varied or revoked by any such regulations, the regulations contained in the Sixth Schedule to this Code shall be in force.

(2) Any regulations made under this section may have retrospective effect in order to confer a benefit upon, or remove a disability attaching to any person or class of persons.

(3) No regulations made under this section shall have effect unless it has received the prior approval of the House of Representatives signified by resolution.

(4) Any pension granted under this Code shall be computed in accordance with the provisions in force at the actual date of the officer's retirement.

*Pensions to be charged on revenues of Malta*

255. There shall be charged on and paid out of the consolidated Fund all such sums of money as may from time to time be granted by way of pension in accordance with this Code.

*Circumstances in which pension may be granted*

256. No pension shall be granted to any police officer except on his retirement from the Force in any one of the following cases –

(a) on or after attaining the age of fifty-five years or if he has completed twenty-five years' service in the Force;

(b) on the abolition of his office;

(c) on compulsory retirement for the purpose of facilitating improvement in the organisation of the Force, by which greater efficiency and economy can be effected;

(d) in the case of termination of employment in the public interest as provided in this Code;

(e) on medical evidence to the satisfaction of the Prime Minister that such Police officer is incapable by reason of infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent.

*Retirement on the ground of public interest*

257. Where a Police officer's service is terminated on the ground referred to in paragraph (iii) of section 20 of this Code, and a pension cannot otherwise be granted under the provisions of this Code, such Police officer may be granted a pension not exceeding in amount that for which he would be eligible if he retired from the Force in the circumstances described in paragraph (e) of section 256 of this Code.

*Maximum pension grantable*

258. (1) A pension granted to a Police officer under this Code shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in the Force.

(2) For the purpose of the preceding subsection an additional pension granted in respect of injury shall not be taken into account; but where a Police officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his service in the Force by more than the sum by which his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

(3) For the purpose of this Part of this Code and the regulations made thereunder:

“month” means a calendar month;

“pensionable emoluments” include –

- (i) salary,
- (ii) personal allowance,

but does not include duty allowance, entertainment allowance, house allowance, the estimated annual rental value of free quarters, value of rations, extra remuneration, any fees paid out of the Treasury by way of salary or any other emoluments whatsoever;

“personal allowance” means special addition granted personally to the holder for the time being of the office, but does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“Police officer” means a police officer appointed in the Force on or after the 15th January, 1979;

“year” means a calendar year.

*Pensions not to be assignable*

259. No pension under this Code shall be assignable, transferable or liable to be attached, sequestrated or levied upon, for or in respect of any debt or claim whatever, except in so far as is provided in subsection (3) of section 318 of the Code of Organisation and Civil Procedure.

*Pension to be reduced in certain circumstances*

260. (1) A police officer, who retires on grounds listed in paragraph (e) of section 256 of this Code, to whom a pension has been granted under this Code and who is in receipt of –

(a) any remuneration in respect of any employment, or of any services rendered, or of any office held; or

(b) any income deriving from the exercise of a trade, business, profession or vocation; or

(c) any income deriving from any pension, allowance or other payment in respect of any employment, service or office aforesaid,

shall, until he reaches the age of fifty-five years or until the twenty-fifth anniversary of his first appointment in the Force, whichever is the earlier, have his pension reduced by the amount by which the aggregate income established in accordance with the following provisions of this section exceeds the salary which is then payable in respect of the post which the officer held on retirement, taking account only, if such salary is incremental, of the corresponding increments earned prior to retirement, or, if such post has been abolished, an analogous post:

Provided that the yearly pension shall in no case be reduced to less than the sum of fifty liri, and if the yearly pension or other allowance does not exceed the minimum payable as aforesaid no reduction shall be made therefrom.

(2) For the purpose of subsection (1) of this section, the aggregate income shall be established by adding –

(a) the pension which, but for the provisions of this section, would have been receivable under this Code; and

(b) any remuneration or income referred to in paragraph (a), (b), or (c) of subsection (1) of this section, or both such remuneration and income; and

by subtracting therefrom the yearly sum of fifty liri.

(3) Any reduction in the pension under subsection (1) of this section shall be calculated on the basis of the pension, the remuneration or other income, and the salary, receivable during a period of twelve months ending on 31st December of the year in which the reduction is due to be made, but, subject to any adjustments that may be or become necessary for any reason whatsoever, and in so far as practicable, shall be made from the monthly or other periodical payments of the pension.

(4) Any officer to whom subsection (1) of this section applies shall without delay inform the Accountant General, and keep him at all times informed, of all the circumstances which render the said subsection (1) applicable to him and the extent to which it is so applicable, and of any change in the circumstances or extent aforesaid, and shall give the Accountant General on request, all relevant information; and if such officer fails to comply with any of the provisions of this subsection any pension to which he may be entitled under this Code shall forthwith cease:

Provided that on good cause being shown the pension or other allowance may be restored, with or without retrospective effect, by the Prime Minister.

## **PART XIV**

### **REGULATIONS AND ORDERS**

#### *Minister may make regulations*

261. (1) The Minister responsible for the Police, or the Minister responsible for justice as the case may be, may make regulations for the better carrying out of the provisions of this Code and for the general governance of the Force, and without prejudice to the generality of the foregoing, in particular as to any matters which the Commissioner is authorised to regulate by standing orders, and when such regulations are made, they shall prevail over any standing orders made or to be made by the Commissioner.

(2) The provisions contained in the Schedules hereto may be varied or revoked by regulations made by the Minister responsible for the Police under this section.

#### *Commissioner may make standing orders*

262. The Commissioner may, subject to the provisions of this Code and to any regulations made by the Minister responsible for the Police, from time to time make standing orders for the general governance of police officers in relation to their leave, conditions of service, transfer (including expenses in connection therewith), training, arms and accoutrements, clothing and equipment, places of residence, classification and duties, as well as to their distribution and inspection, and such other orders as he may deem expedient to prevent negligence and for promoting efficiency and discipline on the part of police officers in the discharge of their duties.

#### *Forms*

263. The Commissioner shall also provide for any forms or procedures which may be required by or under this Code.

**PART XV****MISCELLANEOUS***Public Service Commission*

264. Subject to any such delegation of powers as is referred to in section 110 of the Constitution of Malta, in the exercise of the powers conferred upon him by sections 19 (with the exception of subsection (3)) and 20 of this Code the Prime Minister shall act on the recommendation of the Public Service Commission.

*Continuity of service*

265. All persons who at the date of commencement of this Code are serving as police officers shall be deemed to have been appointed under this Code:

Provided that for the purpose of the provisions of section 18 such police officers shall not be bound to take the oath therein prescribed until required so to do by the Commissioner and until such time shall continue to be bound by the oath taken under the Malta Police Ordinance:

Provided that the Commissioner shall take the oath before the President on the coming into force of this Code.

*National Central Bureau of Interpol*

266. (1) The Force shall continue to make use of its international relations office known as the National Central Bureau Floriana which is affiliated to the International Criminal Police Organisation – Interpol.

(2) The National Central Bureau Floriana shall continue to ensure and promote the widest possible mutual assistance between foreign national central bureaux within the limits of the laws of Malta.

(3) The limits of the National Central Bureau Floriana's actions shall in no way exceed those which are stipulated under the Constitution of the International Criminal Police Organisation – Interpol.

(4) The National Central Bureau Floriana shall continue to conduct investigations and enquiries in Malta requested by foreign national central bureaux and shall also continue to request assistance from similar foreign police services in enquiries and investigations which are being conducted locally, on a reciprocity basis.

*Reserve Constables*

267. (1) The Force may engage a number of reserve constables, who may be considered as suitable to perform certain limited police work, in special circumstances.

(2) A reserve constable shall be paid an allowance for the work done.

(3) A reserve constable shall be bound by the same law, regulations and rules *mutatis mutandis* as apply to ordinary police officers, while assigned to a particular duty.

#### *Police Band*

268. (1) The Force shall maintain a musical band on a regular basis which may be requested to perform in public even on occasions not strictly connected with ceremonies in which the Force participates.

(2) The Commissioner may employ reserve constables as provided in this Code, specifically for duties with the Police Band, when this is required to attain a full complement in the Band, and regular police officers are not available.

#### *Animals used by the Force*

269. (1) The Force shall continue to make use of animals in the performance of certain operations and in ceremonial functions.

(2) The Commissioner shall ensure that these are treated in the best way possible and compatibly with the nature of such animals, and that they are not subjected to any cruel treatment.

(3) Unless otherwise advised by a veterinary surgeon, an animal that is no longer of use to the Force, for any reason whatsoever, shall preferably be donated to any person or body that can continue to treat the animal well in its retirement. The Force shall not put down an animal merely because no suitable person has been immediately found to take care of that animal.

#### *Repeal and saving*

270. (1) On the coming into force of this Code, the Malta Police Ordinance shall be repealed.

(2) Notwithstanding the provisions of subsection (1) of this section, any regulation, rule, standing order and circular made under the Malta Police Ordinance shall remain in force as if made under this Code, until they are repealed, revoked or substituted.

(3) On the coming into force of this Code the Security Services Act shall be repealed.

(4) Nothing done in virtue of the laws repealed by this section shall be held to be in violation of the law even though the effect or execution of any thing done persists even after the repeal of any such law.

## FIRST SCHEDULE

(Section 18)

**Oath of office of Commissioner/Police Officers**

“I \_\_\_\_\_ solemnly swear/affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution and that I will faithfully serve the said Republic during my service in the Malta Police Force; as a Commissioner/Police Officer that I will subject myself to all Codes, Acts, Ordinances, orders and regulations relating to the said Force now in force or which may from time to time be in force and will discharge all the duties of a Commissioner/Police Officer according to law, without fear or favour, affection or ill will. (So help me God).”

## SECOND SCHEDULE

(Section 28)

**Offences against Discipline***Discreditable conduct*

1. Discreditable conduct, that is to say, if a member of the Force -

(a) uses any defamatory, insulting, or disparaging words, acts or gestures in contempt of the President of Malta or of the Government of Malta or of any person employed or concerned in the administration of the Government of Malta; or

(b) imputes misconduct in administering the Government to a person employed in the administration of the Government of Malta; or

(c) utters or otherwise expresses disparagement of the Commissioner, or of the administration of the Force, or uses any word or expression calculated or having a tendency to bring the Commissioner or the administration of the Force into hatred, contempt or ridicule; or

(d) acts or issues any orders, or causes or incites anyone to act, in variance with any orders or directions issued from time to time by the Commissioner, or from Police Headquarters on behalf of the Commissioner; or

(e) utters or writes anything calculated or having a tendency to bring about disaffection among any members of the Force, or in any manner canvasses or causes, or attempts to canvass or cause, or to do or to be done, anything so calculated or having such tendency; or

(f) induces, or attempts to induce, or does any act, calculated or having a tendency to induce any member of the Force to withhold his services or to commit any breach of discipline; or

(g) acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the Force or of the police service.

*Insubordinate or oppressive conduct*

2. Insubordinate or oppressive conduct, that is to say, if a member of the Force -

(a) is subordinate by word, act, or demeanor; or

(b) is guilty of oppressive or tyrannical conduct towards an inferior in rank; or

(c) uses obscene, abusive or insulting language to any other member of the Force; or

(d) wilfully or negligently makes any false complaint or statement against any member of the Force; or

(e) assaults any other member of the Force, when this does not constitute a breach of section 16 of this Code; or

(f) improperly withholds any report or allegation against any member of the Force.

*Disobedience to orders*

3. Disobedience to orders, that is to say, if a member of the Force -

(a) disobeys or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise; or

(b) resides in a place not approved by the Commissioner; or

(c) without the previous consent of the Commissioner, receives a lodger in a house or quarters with which he is provided by the Government, or sublets any part of such house or quarters; or

(d) without a written approval of the Commissioner receives a lodger in a house in which he resides and in respect of which he receives a rent allowance, or sublets any part of such house; or

(e) wilfully refuses or neglects to discharge any lawful debt; or

(f) carries on or is concerned in any trade or business, or otherwise fails to devote his whole time to the police service.

*Neglect of duty*

4. Neglect of duty, that is to say, if a member of the Force -

- (a) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is his duty as a member of the Force; or
- (b) idles or gossips while on duty; or
- (c) fails to work his beat in accordance with orders or leaves his beat, point, or other place of duty to which he has been ordered, without due permission or sufficient cause; or
- (d) by carelessness or neglect permits a prisoner to escape; or
- (e) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making him amenable to justice; or
- (f) fails to report any matter which it is his duty to report; or
- (g) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he, or any person within his knowledge, can give for or against any prisoner or defendant to a criminal charge; or
- (h) omits to make any necessary entry in any official document or book; or
- (i) neglects, or without good and sufficient cause omits, to carry out any instructions of a medical officer acting on behalf of the Commissioner, of the Chief Government Medical Officer, or, while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his return to duty.

*Falsehood or prevarication*

5. Falsehood or prevarication, that is to say, if a member of the Force -
- (a) knowingly makes or signs any false statement in any official document or book; or
  - (b) wilfully or negligently makes any false, misleading or inaccurate statement; or
  - (c) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.

*Breach of confidence*

6. Breach of confidence, that is to say, if a member of the Force -
- (a) divulges any matter which it is his duty to keep secret; or
  - (b) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons; or

(c) without proper authority communicates to the public press, or to any unauthorized person, any matter connected with the Force; or

(d) without proper authority shows to any person outside the Force any book or written or printed document the property of the Police or of any Government Department; or

(e) not being the Commissioner or a delegate duly authorised by the Commissioner, or a member of the Malta Police Association, participates in any activity of the said Malta Police Association, in violation of the provisions of this Code or advises or influences, or attempts to advise or influence, any organ of the said Association or any official or member thereof, in relation to any activity of the said Malta Police Association; or

(f) does not abstain from any political activity or canvassing or from any activity which is likely to interfere with the loyal and impartial discharge of his duties, or which is likely to give rise to the impression among members of the public that it may so interfere; or

(g) makes any anonymous communication to the Commissioner or any other police officer, or to any Government Department or officer; or

(h) canvasses or attempts to canvass any member of the House of Representatives or of the Public Service or of any other body or organ of the Government, with regard to any matter concerning the Force; or

(i) signs or circulates any petition or statement with regard to any matter concerning the Force, except as provided by this Code or by any regulations or standing orders made thereunder.

### *Corrupt practice*

7. Corrupt practice, that is to say, if a member of the Force -

(a) receives any bribe; or

(b) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity; or

(c) directly or indirectly solicits or receives any gratuity, present, any free food or drinks, subscription or testimonial, without the consent of the Commissioner; or

(d) places himself under pecuniary obligation to any person in such a manner as is likely to affect the proper carrying out his duties; or

(e) improperly uses his character and position as a member of the Force for his private advantage; or

(f) in his capacity as a member of the Force, writes, signs or gives, without the sanction of the Commissioner, any testimonial of character or other recommendation with the object of obtaining a benefit for any person from private third parties; or

(g) without the sanction of the Commissioner, supports an application for the grant of a licence of any kind; or

*Unlawful or unnecessary exercise of authority*

8. Unlawful or unnecessary exercise of authority, that is to say, if a member of the Force without good and sufficient cause -

(a) conducts a search, or requires a person to submit to any test or procedure, or makes an arrest; or

(b) uses any violence to a prisoner or any other person with whom he may be brought into contact in the execution of his duty; or

(c) is uncivil to any member of the public; or

(d) discharges a firearm.

*Malingering*

9. Malingering, that is to say, if a member of the Force feigns or exaggerates any sickness or injury with a view to evading duty.

*Absence without leave*

10. Absence without leave or being late for duty, that is to say, if a member of the Force without reasonable cause is absent without leave from, or is late for, parade, court or any other duty.

*Uncleanness*

11. Uncleanness, that is to say, if a member of the Force while on duty or while off duty in uniform in a public place is unshaven or improperly dressed, or is dirty or untidy in his person, clothing or equipment.

*Damage to clothing, etc.*

12. Damage to clothing or other articles supplied, that is to say, if a member of the Force -

(a) wilfully or by carelessness causes any waste, loss or damage to any articles of clothing or equipment, or to any book, document or other property of the Police or of any Government Department; or

(b) fails to report promptly any loss or damage of the things mentioned in paragraph (a) above, in whatever manner caused; or

(c) uses government property for purposes other than those for the execution of his duties.

### *Drunkenness*

13. Drunkenness, that is to say, if a member of the Force while on duty or off duty, is unfit for duty through drink.

### *Drinking on duty*

14. Drinking on duty or soliciting drink, that is to say, if a member of the Force –

(a) without the consent of his superior officer, drinks, or receives from any other person, any intoxicating liquor while he is on duty; or

(b) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor while he is on duty.

### *Entering licensed premises*

15. Entering licensed premises, that is to say, if without permission a member of the Force enters -

(a) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed when his presence there is not required in the execution of his duty; or

(b) any such premises in uniform while off duty.

### *Lending money, etc*

16. Lending, borrowing or accepting presents, that is to say, if a member of the Force lends money to any superior in rank or borrows money or accepts any present from any inferior in rank.

*Discriminatory Treatment*

17. Without a good sufficient and legal cause, treats any person or persons in a discriminatory manner, whether favourably or adversely.

*Criminal conviction*

18. Conviction for a criminal offence, that is to say, if a member of the Force has been found guilty by a court of law of a criminal offence.

*Accomplice in offence*

19. Being an accomplice in a disciplinary offence, that is to say, if a member of the Force connives at, or knowingly commits an act of complicity in, any offence against discipline.

*Conduct prejudicial to good order*

20. Breach of order, that is to say, if a member of the Force conducts himself, by act or omission, in any manner prejudicial to good order or discipline, or otherwise unbecoming a member of the Force, and not elsewhere provided for in this Schedule.

*Interpretation*

21. For the purposes of this Schedule the word “prisoner” means any person in any legal custody or detention, whether sentenced or awaiting trial, is detained by the police, or held under a lawful warrant or order.

### THIRD SCHEDULE

(Section 165)

#### **Oath for the due execution of the office of Enquiring Magistrate**

“I \_\_\_\_\_ solemnly swear/affirm that I will faithfully and with all honesty and to the best of my ability perform my duties as Enquiring Magistrate as prescribed by law and without fear or favour. (So help me God).”

#### FOURTH SCHEDULE

(Section 165)

##### **Oath of allegiance of Enquiring Magistrates**

“I \_\_\_\_\_ solemnly swear/affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution (So help me God).”

#### FIFTH SCHEDULE

(Section 160)

##### **Statute of the Malta Police Association**

###### ARTICLE 1

1.1 There is hereby established an Association to be known by the name of the Malta Police Association hereinafter called ‘The Association’; under the present statute, and which shall be the successor in title to the Malta Police Association which has been established by law under the Malta Police Ordinance.

1.2 Any word or term in this Statute shall have the same meaning as is assigned to it in the Police Code, unless the context otherwise requires.

###### ARTICLE 2

###### *Aims and objectives*

2.1 The aims and objectives of the Association shall be those defined in the Police Code and, in particular:

2.1.1 to safeguard and improve the conditions of employment of members, and to promote their interests, with particular reference to the participation of the Association in the Police Negotiating Board, as established under the Police Code or any other related board; to represent the interests of the members in any discussions with the official side in the Police Force;

2.1.2 the raising of the intellectual, moral, and professional standard of the members;

2.1.3 the cultivation and development of relations between colleague members, and ex-members of the Malta Police Force;

2.1.4 the enhancement of the welfare of members of the Force and their dependants, through such services as may be possible from time to time, including collective insurance policies;

2.1.5 to afford advice and assistance to individual members in disciplinary proceedings;

2.1.6 to establish and administer a fund or funds for the purpose of providing educational, welfare, cultural and social activities;

2.1.7 to rent, take on lease, purchase, or otherwise acquire property and/or offices for the purposes of the Association;

2.1.8 to own and administer property and funds, and in the execution of its aim and objectives, it may employ staff and advisers, and to do all that is necessary, ancillary, or conducive to the attainment of such aims and objectives.

### ARTICLE 3

#### *Membership*

3.1 Membership shall be voluntary and shall be open to all Police Officers.

3.2 All Police Officers shall be deemed to be members of the Association, as on the day preceding the date of coming into force of this Statute.

3.3 Any Police Officer may opt to resign as member of the Association, after the date of coming into force of this Statute.

3.4 Membership shall automatically cease:

3.4.1 upon death;

3.4.2 upon termination of being a member of the Force;

3.4.3 in the event that a member has not contributed for his membership for four consecutive times;

3.4.4 upon voluntary termination.

3.5 The reinstatement of any member shall be subject to the payment in full of any arrears existing at the time of lapsing.

### ARTICLE 4

#### *Subscription*

4.1 A member's subscription shall be due and payable quarterly in advance, at the rate of Lm 5.

4.2 Subscription fees shall be at such rate as the General Conference shall determine by a simple majority vote.

4.3 Subscriptions shall be paid by the members as the General Conference may determine, but on the coming into force of this Statute, to the salary paying officer.

## ARTICLE 5

### *Office and emblem*

5.1 The office of the Association shall be at the Police Headquarters or at such other address as may be decided according to this Statute.

5.2 The seal shall include the emblem of the Malta Police Association.

## ARTICLE 6

### *Rights and Obligations of members*

6.1 All members have the right to elect and be elected in the Association.

6.2 A member is bound by this Statute and by the decisions reached according to the internal democratic process.

6.3 A member shall continue to pay the membership fee as established from time to time by the Association.

## ARTICLE 7

### *Foreign membership or contacts*

7.1 The Association may continue to be a member of the European Council of Police Unions (C.E.S.P.) according to its Statute.

7.2 The Association shall maintain such contacts with foreign Police Associations to promote its ideals.

## ARTICLE 8

### *Organs of the Association*

8.1 The organs of the Association shall be :

8.1.1 the General Conference

8.1.2 the Executive Committee

8.1.3 the Branch Boards.

## ARTICLE 9

### *The General Conference*

9.1 The highest organ of the Association shall be the General Conference which shall elect the Executive Committee, and shall be the primary policy-making body of the Association.

9.2.1 There shall be an Annual General Conference, which shall examine and adopt the Annual Report of the Executive Committee, and examine and approve the Annual Accounts. In alternate Annual General Conferences, there shall be the elections mentioned in this Statute for the Executive Committee.

9.2.2 The first General Conference shall be convened within three months from the entry into force of the Police Code, and shall be convened by the Commissioner for the approval of this Statute and for the election of the Executive Committee and other elections mentioned in this Statute.

9.2.3 The Annual Conference shall be held in the calendar month of each year, in accordance with the first established under the preceding paragraph.

9.3 The General Conference shall be composed of the Executive Committee, and up to two representatives from each rank, except for the Commissioner and the Deputy Commissioner.

9.4 The Chairman shall preside over the deliberations of the conference; in his absence by the Secretary General; in their absence by a person appointed by the Executive Committee.

9.5 The conference shall be held at the appointed place, date and time decided upon by the Executive Committee.

9.6 The agenda for the General Conference shall be prepared by the Executive Committee and shall be distributed at least one month in advance of the appointed day. All decisions shall be taken by a simple majority.

## ARTICLE 10

### *Executive Committee*

10.1 The Executive Committee shall be composed of a Chairman, Secretary General, Treasurer and one member from each rank, following their elections during the General Conference.

10.2 Resignations may be received by the Secretary General and any vacancies arising thereafter shall be filled by co-option until the following elections.

10.3 The Executive Committee shall be responsible for the proper administration of the funds, for making representations and carrying out or making arrangements for negotiations with competent authorities. The juridical representation of the Association shall be vested in the Executive Committee.

10.4 The Executive Committee may delegate representative/s for the carrying out of all or part of such duties.

10.5 The Executive Committee shall implement decisions adopted at the General Conference.

10.6 The Executive Committee shall meet as often as it deems necessary in order to carry out its business efficiently. The quorum shall be of half the number of members plus one, or after half an hour from the appointed time, the members present.

10.7 Motions for any amendment may be presented by or to the Executive Committee and shall be published or communicated to all members at least ten days before the General Conference.

## ARTICLE 11

### *Branch Boards*

11.1 There shall be Branch Boards composed of representatives as shown hereunder:—

11.1.1 For each and every unit/branch/rank as established by the Commissioner from time to time.

11.1.2 Five representatives for Police male constables, one female Police constable, three Police male Sergeants, one female Police Sergeant, three Sergeant Majors, five male Inspectors, two female Inspectors, two Superintendents, one Assistant Commissioner, one Deputy Commissioner and Commissioner.

11.1.3 Elections to Branch Boards shall be held every two years and the highest ranking officer in any unit or branch or rank shall be considered as the returning officer and the electoral officer.

11.1.4 Every member shall have the right for one vote. Voting shall always be held by a secret ballot.

11.1.5 The Secretary General shall be the authority to issue the writ for elections and determine the place where the elections are to be held.

11.1.6 Where a vacancy arises in any Branch Board, the method of co-option shall apply.

11.1.7 Each Branch Board shall send delegates to the General Conference as shown hereunder:

Male Constables	Five	Female Constables	Three
Males Sergeants	Five	Female Sergeants	Three
Regimental/Serg. Majors	Two		
Male Inspectors	Two	Female Inspectors	Two
Superintendents	Two	Assistant Commissioners	Two
Deputy Commissioner	One	Commissioner	One

## ARTICLE 12

### *Auditors*

12.1 The treasurer shall be responsible for the funds of the Association. Payments shall always be through a cheque account, which shall require the signature of the Treasurer and another official of the Executive Committee to be specifically designated.

12.2 Auditors may be appointed during a General Conference, who shall be not less than three and not more than five. In default of any such appointment, the civilian financial administration of the Police Force shall carry out the annual audit.

12.3 No full-time appointments may be made of personnel from outside the Association, unless prior approval has been obtained from the General Conference which shall be informed of the name and conditions of the person to be appointed. In other cases, which are of limited duration or for specific tasks, the Executive Committee shall decide.

## ARTICLE 13

### *Dissolution*

13.1 The Association may be dissolved with the consent of five-sixths of the members, at the General Conference, or after the membership falls below 30 per cent of the officers of all ranks.

13.2 In the case of dissolution, any favourable balance in the funds shall be transferred to the Police Force, to be held until eventually another Association is formed with the aim and objectives similar to those of the Malta Police Association.

## SIXTH SCHEDULE

(Section 254)

### POLICE PENSION REGULATIONS

#### **General Regulations**

##### *Short title*

1. These regulations may be cited as the Police Pensions Regulations.

##### *Pensions to whom and at what rates to be granted*

2. Subject to the provisions of the Police Code, hereinafter called the Code, and of these regulations, every Police officer, who has been in the Force for 10 years or upwards, may be granted a pension at the rate of one four-hundred and fiftieth of his pensionable emoluments for each complete month of pensionable service, subject to the limit described in section 258 of the Code.

##### *Service to be unbroken*

3. The service in respect of which a pension may be granted must be unbroken, except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment, and not arising from misconduct or voluntary resignation:

Provided that any service prior to a break of service may be allowed to count for pension together with any service subsequent to such break:

(a) if the whole intervening period has been spent in some other employment in the service of the Republic; or

(b) in the case where such Police officer, having resigned from the force, is subsequently recalled in the Force with the approval of the Prime Minister on account of the exigencies of the Force, and such recall is certified by the Prime Minister.

##### *Emoluments to be taken for computing pension*

4. (1) For the purpose of computing the amount of the pension of a Police officer who has had a period of not less than three years' pensionable service under the Code before his retirement –

(a) in the case of a Police officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at the date in respect of that office shall be taken;

(b) in the case of a Police officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by the grant of any scale increments, the full amount pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;

(c) in other cases one third of the aggregate pensionable emoluments enjoyed by the Police officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken:

Provided that –

(i) if such one third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years those annual pensionable emoluments shall be taken; and

(ii) if such one third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion of the Prime Minister would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under paragraph (1) of this regulation the pensionable emoluments that a Police officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed –

(a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and

(b) to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase has been payable throughout such period of three years.

(3) For the purpose of computing the amount of the pension of a Police officer who has had a period of less than three years' pensionable service before his retirement –

(a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;

(b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period:

(c) he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period; and

(d) any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the President, and during which he has not qualified for pension in respect of other public service.

(4) In no circumstances shall the pensionable emoluments to be taken exceed the full annual pensionable emoluments enjoyed by the Police officer at the date of his retirement in respect of the office then held by him.

(5) In the case of a Police officer to whom subparagraph (d) of paragraph (1) of regulation 5 applies, the date of retirement shall:

(a) where such officer reaches the age of retirement; or

(b) where such officer would have but for his dismissal completed 25 years' service;  
or

(c) where such officer dies;

before his dismissal has been declared null by the competent authority, be deemed to be the day on which he reaches the age of retirement, or the day on which he would have completed 25 years' service, or on which he died, whichever is the earlier, and his pensionable emoluments to be taken into consideration shall be those which he would have been receiving on such date had he not been so dismissed.

#### *Computation of pensions*

5. (1) For the purpose of computing the amount of a Police officer's pension the following periods shall be taken into account as pensionable service:

(a) any periods during which he had been on duty;

(b) any period during which he received half salary;

(c) any periods during which he has been absent from duty on leave with full or half salary;

(d) any period following dismissal from the Force, where such dismissal is subsequently declared to have been invalid by a competent authority, up to the time of reinstatement, or the date when such Police officer would have completed 25 years' service, or the day on which such Police officer would have to retire because of age, or the date when such officer dies, whichever is the earlier.

And any periods during which he has been absent on leave other than those specified above shall be deducted from the officer's total service in order to arrive at his period of pensionable service.

(2) For the purposes of subparagraph (d) of paragraph (1) of this regulation and for the purposes of paragraph (5) of regulation 4, the term "dismissal" shall be deemed to include "compulsory retirement on the ground of public interest", and the term "dismissal" shall be construed accordingly.

*Acting service*

6. Where an officer has performed acting service in a pensionable office in the Force, the period of such service may be taken into account as pensionable service under the Code:

Provided that –

(a) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the officer's own pensionable service under the Code in the Force:

(b) this period of service is immediately preceded or followed by service in a substantive capacity in the Force.

*Abolition or reorganization of office*

7. If a Police officer retires or is removed from the Force in consequence of the abolition of his office, or for the purpose of facilitating improvements in the Force, by which greater efficiency and economy can be effected, he may be granted a pension:

Provided, however, that if he has been in the Force for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with regulation 2 as if there had been no qualifying period:

And provided also that the grant of such pension shall be subject to the condition that he shall be liable to be recalled to service in the Force:

Provided further that if such a Police officer is not qualified for other employment in the Force or if there is no reason, in the opinion of the Prime Minister, to expect that he can be shortly re-employed, a pension may be granted to him free from the above-mentioned condition.

*Rates of pension when offices are abolished*

8. A Police officer whose office is abolished may be granted an increase of his pension at the rate of one-sixtieth part of his annual pensionable emoluments for each complete period of three years' pensionable service:

Provided –

(a) the addition shall in no case exceed ten sixtieths; and

(b) no addition shall be made so as to qualify an officer for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age at which he may be required to retire, or for a pension of higher annual value than the maximum prescribed in section 258 of the Code.

*Officers retiring on account of injuries*

9. (1) Where a Police officer has been permanently injured –

- (a) in the actual discharge of his duty, and
- (b) without his own default, and
- (c) by some injury specifically attributable to the nature of his duty,

and his retirement is thereby necessitated or materially accelerated, he may, if he is qualified for a pension under regulation 2, be granted, in addition to the pension granted to him under that regulation, an additional pension at the rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table:

When his capacity to contribute to his own support is –

slightly impaired .....	five-sixtieths;
impaired .....	ten-sixtieths;
materially impaired .....	fifteen-sixtieths;
totally destroyed .....	twenty-sixtieths:

Provided that the amount of the additional pension shall be reduced to such an extent as the Prime Minister shall think reasonable in the following cases:

- (i) where the injured Police officer has continued to serve for not less than one year after the injury in respect of which he retires;
- (ii) where the injured Police officer is at the date of injury within ten years of the age at which he may be required to retire; or
- (iii) where the injury is not the sole cause of retirement, but the retirement is caused partly by age or infirmity not due to the injury;

Provided also that the total amount of the additional pension shall not exceed the amount prescribed in subsection (2) of section 258 of the Code.

*Pensions to officers when service is less than 10 years*

(2) A Police officer so injured, whose length of service is not such as to qualify him for a pension under regulation 2, may nevertheless be granted a pension at the rate of one four-hundred and fiftieth of his pensionable emoluments for each complete month of pensionable service together with such additional pension as might be awarded to him under the preceding part of this regulation if he were qualified for pension.

*Pensions to widows of officers, killed in the discharge of duty*

10. (1) Where a Police officer without his own default has been killed in the actual discharge of his duty or has died from such injury specifically attributable to the nature of his duty or has been killed while in the actual discharge of his duty, a pension may be granted to his widow, while unmarried not exceeding ten-sixtieth of the husband's pensionable emoluments at the day of injury; and a pension may be granted to each child of such officer, until such child attains the age of eighteen years, not exceeding one-sixth of the rate awardable to the widow, so long as the aggregate of the children's pensions do not exceed the rate awardable to the widow.

(2) The foregoing provision shall apply also in case the officer, after he shall have been pensioned under regulation 9, dies from the direct and immediate effects of the injury sustained.

(3) If the officer's wife predeceases him, or if no pension is granted to her under this section, and he leaves children who would have been eligible for pension, if a pension had been granted to the widow, pensions may be granted to them of twice the amount of the pensions for which they would have been eligible in the circumstances.

(4) If the deceased does not leave a widow or motherless children but leaves a mother who was wholly dependent on him for maintenance, the award which might have been made to the widow had there been one left, may be made to the mother, but shall cease, if she be widow, in the case of remarriage.

*Good conduct required*

11. (1) Pensions, computed at the rates before mentioned, shall only be granted in case of decidedly faithful and meritorious service.

(2) Where the fidelity and diligence of the officer fall short of the first degree of merit the computation may be made at lower rates.

## SCHEDULE II

(Section 4)

### **Amendments to the Criminal Code (Cap 9)**

1. For section 346 there shall be substituted the following:

“346. The powers and duties of the Police shall be those contained in this Code, in the Police Code, and in any regulations made thereunder, including any Rules of Court.”

2. Section 347 to 354 (inclusive) shall be deleted.

3. In section 360 –

(a) for subsection (2) thereof, there shall be substituted the following new subsection:

“(2) The summons shall contain a clear designation of the person summoned, including his identity card number or his passport number, when available, and a brief statement of the facts of the charge, together with such particulars as to time and place as it may be necessary or practicable to give. It shall also contain an intimation that, in default of appearance, the person shall be arrested by warrant of the court and arraigned on such day as may be stated in the warrant.”;

(b) immediately after subsection (2) thereof, there shall be inserted the following new subsection (3):

“(3) When a person is brought before the Court by a summons, the Court may impose such conditions as it deems fit to guarantee the appearance of the person charged for the trial, including any condition that he must sign at regular intervals at a police station, or that he must stay at his address during certain hours of the day, but excluding any imposition of a bail bond.”.

4. In section 363 –

(a) the present section shall be renumbered as subsection (1);

(b) immediately after subsection (1), there shall be inserted the following new subsections (2) and (3):

“(2) Notwithstanding the provisions of the previous sections, service may be effected by registered mail in a sealed envelope to the address given by the person to be served, or the last known address of such person, or at the address which results from his identity card, in such manner and under such regulations as the Minister responsible for justice may order by notice in the Government Gazette.

(3) Where a person refuses to be served with any summons, even if delivered through the postal service, he shall be deemed for all intents and purposes of the law to have been duly served with any such summons, and the Court, may according to the circumstances of the case, take such action as it deems appropriate according to law.”.

5. In section 547 –

(a) for subsection (1) thereof, there shall be substituted the following new subsection (1):

“(1) The inquest shall be held by an Enquiring Magistrate appointed according to the Police Code, and the word “Magistrate” in this Title, wherever it occurs, means any such Enquiring Magistrate.”;

(b) in subsection (2) thereof, for the words “Magistrate of that court” there shall be substituted the words “Enquiring Magistrate”.

6. In section 549, for subsection (1) thereof, there shall be substituted the following new subsection (1):

“(1) A separate proces verbal shall be drawn up for each and every intervention by the Enquiring Magistrate in the same investigation, and each such proces verbal shall be signed by the Enquiring Magistrate, indicating the date and time and place where it was drawn up.”.

7. In section 550 –

(a) for subsection (5) thereof, there shall be substituted the following new subsection (5):

“(5) The proces verbal shall be deemed to have been regularly drawn until the contrary is proved. It shall not be necessary for the Enquiring Magistrate to draw up a conclusion from the different proces verbaux of inspections on the spot, the reports of experts, the proces verbaux of witnesses examined, but he may indicate his opinion as to the possible result of the investigation, or what further investigations may be required.”;

(b) immediately after subsection (5) thereof, there shall be inserted the following new subsections (6) and (7):

“(6) The Police officer in charge of the investigation shall have immediate access to any proces verbal drawn up by an Enquiring Magistrate, who shall proceed to its drawing up immediately. If, on account of the circumstances of time and place, it is not possible to draw up the proces verbal immediately, then the Enquiring Magistrate shall be allowed the time of one day for the drawing up of the proces verbal.

(7) The use of electromagnetic means for the registration of a proces verbal shall be allowed, under the same conditions as it applies to the Court of Magistrates.”.

8. In subsection (1) of section 551 –

(a) for the words “the Executive Police to the Court of Judicial Police” there shall be substituted the words “the Police to the Enquiring Magistrate”.

(b) for the words “Magistrate of the Court of Judicial Police” there shall be substituted the words “Enquiring Magistrate”.

9. In section 556, for the words “Inquiring Magistrate” wherever they occur, there shall be substituted the words “Enquiring Magistrate”.

10. In section 557 –

(a) in subsection (1) thereof, for the words “Inquiring Magistrate” there shall be substituted the words “Enquiring Magistrate” and for the words “in court” there shall be substituted the words “to the Enquiring Magistrate”;

(b) for the word “court”, wherever it occurs in subsections (2), (3), and (4) of the said section, there shall be substituted the words “Enquiring Magistrate”.

11. In section 564, for the words “Inquiring Magistrate” wherever they occur, there shall be substituted the words “Enquiring Magistrate”.

12. In section 569 –

(a) in subsection (2) thereof, the words “or to the Inquiring Magistrate” shall be deleted;

(b) in subsection (4) thereof, for the words “Court of Judicial Police” there shall be substituted the words “registry of the Enquiring Magistrate”.

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## Objects and Reasons

The object of this Bill is to introduce the Police Code in substitution of the Malta Police Ordinance, in line with the modernisation of the Police Force, especially in view of the case law established by the European Court of Human Rights and other organs. It also establishes the office of the Enquiring Magistrate working in constant contact with the Police. Amendments to the Criminal Code and the repeal of the Security Services Act become necessary.