
THE NATIONAL POLICE SERVICE BILL, 2011

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THE NATIONAL POLICE SERVICE BILL, 2011

A BILL for-

AN ACT of the Parliament to consolidate the law relating to the Police; to establish and provide for the functions, organization and discipline of the National Police Service; to provide for the powers and responsibilities of police officers; and for connected purposes

ENACTED by the Parliament of Kenya as follows —

PART I— PRELIMINARY

Short title.

1. This Act may be cited as the National Police Service Act, 2011.

Interpretation.

2. (1) In this Act unless the context otherwise provides—

“administration police officer” means an officer appointed to serve as a police officer in the Administration Police Service;

“Administration Police Service” means the Service established under section 25;

“area” includes a geographical area, village, residential estate, location, ward or community of interest as may be identified by the County Policing Authority for the purposes of community policing;

“arms” includes any means to use force and includes firearms;

“arrest” means the act of apprehending a person for suspected commission of an offence or by the action of legal authority;

“Authority” means the County Policing Authority established under section 41;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to the Service;

“Commission” means the National Police Service Commission established by Article 246 of the Constitution;

“community policing committee” means a committee elected by a community policing forum in accordance with section 98(4) for the purposes of coordinating, leading and representing the forum;

“community policing” means the approach to policing that recognizes voluntary participation of the local community in the maintenance of peace and which recognizes that the police need to be responsive to the communities and their needs, its key element being joint problem identification and problem solving, while respecting the different responsibilities the police and the public have in the field of crime prevention and maintaining order;

“cruel, inhuman and degrading treatment or punishment” means a deliberate and aggravated treatment or punishment not amounting to torture, inflicted by a person in authority or the agent of the person in authority against a person under his custody, causing suffering, gross humiliation or debasement to the person;

“Deputy Inspector-General” means the Deputy Inspector-General appointed in accordance with Article 245 of the Constitution;

“Directorate” means Directorate of Criminal Investigations established under section 28;

“firearms” has the same meaning as defined under the Firearms Act;

“Gazetted officer” means a police officer holding the rank of a superintendent and above;

“Inspector-General” means the Inspector-General appointed in accordance with article 245 of the Constitution and this Act;

“Kenya police officer” means an officer appointed to serve as a police officer in the Kenya Police Service;

“member of the Service” includes civilian members of staff of the Service.

“National Security Council” means the Council established under the National Security Council Act;

“police officer” means an Administration Police officer or a Kenya Police Officer, and includes officers of the Directorate of Criminal Investigations and reservists;

“police premises” means any location where police hold office or from where they carry out their duties, including police stations, posts and camps;

“police station” means a place designated by the Inspector-General, as a police station under section 40;

PART II—COMPOSITION, FUNCTIONS AND POWERS OF THE SERVICE

Composition of the Service.

4. (1) The National Police Service shall consist of such maximum number of officers as shall be determined from time to time by the National Security Council in consultation with the Commission.

(2) The Service shall consist of the ranks set out in the First and Second Schedules.

(3) Police officers shall have seniority according to their position as set out in the First and Second Schedules.

Gender, ethnic and regional balance.

5. The composition of the Service shall, so as far as is reasonably practicable—

(a) uphold the principle that not more than two thirds of the appointments shall be of the same gender; and

(b) reflect the regional and ethnic diversity of the people of Kenya.

Deployment of the Service.

6. (1) The Service shall be deployed in Kenya for the performance of the functions specified in the Constitution, this Act or any other law.

(2) The National Security Council may, in case of an emergency, deploy the Service or any part thereof in the defence of Kenya.

(3) For purposes of deploying the Service in case of an emergency under subsection (2), the procedure under Article 58 of the Constitution shall apply.

Constitution of the Service.

Cap. 84. Cap. 85.

7. (1) All persons who were immediately before the commencement of this Act, officers or employees of the Kenya Police Force and the Administration Police Force, established under the Police Act and the Administration Police Act respectively, including officers working with the Criminal Investigations Department, shall upon commencement of this Act become members of the Service in accordance with the Constitution and this Act.

(2) Notwithstanding subsection (1), all officers shall undergo vetting by the Commission to assess their suitability and competence.

(3) The Commission shall discontinue the service of any police officer who fails in the vetting referred to under subsection (2).

Command of the Service.

8. (1) The Service shall be under the overall and independent command of the Inspector-General appointed in accordance with Article 245 of the Constitution and the provisions of this Act.

(2) The Inspector-General may perform the functions or exercise the powers of the office in person or may delegate to an officers subordinate to him.

(3) A delegation under this Act —

(a) shall be in writing;

(b) shall be subject to any conditions the Inspector-General may impose;

(c) shall not divest the Inspector-General of the responsibility concerning the exercise of the powers or the performance of the duty delegated, and

(d) may be withdrawn, and any decision made by the person so delegated may be withdrawn or amended by the Inspector-General.

(4) The Inspector-General shall give direction in situations of conflict between the different mandates of the different Services and units within the Service.

Appointment of Inspector-General and Deputy Inspectors-General.

9. The Inspector-General, the Deputy Inspector-General in charge of Kenya Police Service and the Deputy Inspector-General in charge of Administration Police Service, shall be appointed to office in accordance with Article 245 of the Constitution and sections 12 and 13 of this Act.

Functions and powers of the Inspector-General.

10. (1) The functions of the Inspector-General shall be to —

- (a) implement policy decisions;
- (b) audit of police operations and functioning;
- (c) co-ordinate all police operations;
- (d) advise the Government on policing matters and services;
- (e) prepare budgetary estimates and develop a policing plan before the end of each financial year, setting out the priorities and objectives of the service and the justification thereof;
- (f) determine the establishment and maintenance of police stations, posts, outposts, units or unit bases in the county and determine the boundaries of the police stations, outposts or unit bases;
- (g) determine the distribution and deployment of officers in the Service and recommend to the Commission and the County Policing Authorities;
- (h) organize the Service at national level into various formations, units or components;
- (i) recommend the establishment of, manage and maintain training institutions, centers or places for the training of officers joining the service and other officers;
- (j) commission research and benchmark against best practices;
- (k) issue guidelines on community policing and ensure co-operation between the Service and the communities it serves in combating crime;
- (l) provide the command structure and system of the Service for the efficient administration of the Service nationally;
- (m) subject to the Constitution and this Act, or any written law cooperate with, and implement the decisions

of the Independent Policing Oversight Authority including arranging to pay compensation to victims of police misconduct;

(n) designate any police station, post, outpost, unit or unit base as a place of custody;

(o) promote co-operation with international police agencies;

(p) establish and devolve the services of the Internal Affairs Units that are able and equipped to conduct investigations into police misconduct in a fair and effective manner and report directly to the Inspector- General;

(q) monitor the implementation of policy, operations and directions of the Service;

(r) issue and document Service Standing Orders;

(s) cooperate with other public or private bodies to provide reliable police statistics on crime rates, detection rate, public confidence in the police, number of complaints against the police, as well as personnel statistics;

(t) act on the recommendations of the Independent Policing Oversight Authority, including compensation to victims of police misconduct; and

(u) perform any other lawful act on behalf of the Service.

(2) The Service Standing Orders issued under subsection (1) shall—

(a) be administrative orders;

(b) be for the general control, direction and information of the Service, and

(c) not be inconsistent with the Constitution, this Act or any written law;

(3) The Service Standing Orders shall be made available to each serving police officer and wherever possible, be accessible to the public.

(4) In the performance of functions set out under the Constitution, this Act or any other law, the Inspector-General shall—

(a) have all the necessary powers for the performance of such functions; and

(b) uphold the national values, principles and objects set out in Articles 10, 232 and 244 of the Constitution.

Qualifications for appointment of Inspector-General and Deputy Inspector-General.

11. (1) A person shall be qualified for appointment as Inspector-General if such person—

(a) is a citizen of Kenya;

(b) holds a degree from a university recognized in Kenya;

(c) has had a distinguished career in their respective fields;

(d) meets the requirements of Chapter Six of the Constitution;

(e) has served in a senior management position for at least fifteen years and has knowledge and experience in matters relating to any of the following disciplines—

(i) criminal justice;

(ii) policy development and implementation;

(iii) finance and public administration;

(iv) strategic management;

(v) security;

(vi) law;

(vii) sociology; or

(viii) Government.

(2) A person is qualified for appointment as Deputy Inspector-General if the person—

(a) is a Kenyan citizen;

(b) holds a degree from a university recognized in Kenya;

(c) has had a distinguished career in their respective fields;

(d) meets the requirements of Chapter Six of the Constitution;

(e) has served the Police Service for at least fifteen years and has knowledge and experience in matters relating to any of the following disciplines—

(i) criminal justice;

(ii) policy development and implementation;

(iii) finance and public administration;

(iv) strategic management;

(v) security;

(vi) law;

(vii) sociology; or

(viii) Government;

(f) is a serving police officer of or above the rank of superintendent of Police;

(3) No person shall be qualified for appointment as Inspector-General or Deputy Inspector-General if the person—

(a) is a member of Parliament or a county assembly, a Governor or Deputy Governor;

(b) has served as a member of Parliament, county assembly, trade union or an office in a political party in Kenya in the preceding five years;

(c) has previously been convicted of any criminal offence;

(d) has violated the Constitution; or

(e) is an undischarged bankrupt.

Procedure for appointment of the Inspector-General.

12. (1) Whenever a vacancy arises in the office of the Inspector-General the Commission shall, within fourteen days from the date of the commencement of this Act, by notice in the Gazette and at least two other daily newspapers of national circulation, declare the vacancy for the positions of Inspector-General or Deputy Inspectors-General and request for applications.

(2) Any person qualified in accordance with this Act may make an application to the Commission within fourteen days of the publication of the notice.

(3) The Commission shall consider the applications, conduct public interviews and shortlist at least three persons qualified for each of the positions advertised for under subsection (1).

(4) The names of the persons shortlisted under subsection (3) shall be published in the Gazette.

(5) The Commission shall appoint a selection panel comprising of representatives from-

(a) the Office of the President;

- (b) the Office of the Prime Minister;
 - (c) the Judicial Service Commission;
 - (d) the Commission for the time being responsible for matters relating anti-corruption;
 - (e) the Kenya National Commission on Human Rights; and
 - (f) the Commission for the time being responsible for matters relating to gender, to vet, interview and shortlist qualified candidates for appointment.
- (6) The Commission shall within seven days from the date of shortlisting of qualified candidates under subsection (5) forward the shortlisted names for nomination of Inspector-General to the President for nomination.
- (7) The President shall, within seven days of receipt of the names forwarded under subsection (6), by notice in the Gazette, nominate a person for appointment as Inspector-General from among the shortlisted names and submit the name to the Parliament for approval;
- (8) Parliament shall, within fourteen days after it first meets after receiving the names of the nominees—
- (a) vet and consider the nominee, and may either approve or reject the nomination, and
 - (b) notify the President as to its approval or rejection.
- (9) If Parliament approves the nominee the President shall, within seven days after receiving the notification to that effect, by notice in the Gazette appoint the nominee as the Inspector-General of the National Police Service .
- (10) Where Parliament rejects a nominee submitted by the President, the Speaker of the National Assembly shall communicate its decision to the President and request for a fresh nominee.

(11) In submitting a new nominee under subsection (10), the President shall within seven days, submit to Parliament a fresh nomination from amongst the persons shortlisted and forwarded by the selection panel under subsection (5).

(12) If Parliament rejects any or all of the subsequent nominees submitted by the President for approval under subsection (11), the provisions of subsections (1) to (6) shall apply.

(13) For purposes of appointment of an Inspector-General and the Deputy Inspector-General before the establishment of the Commission, the procedure set out in the Third Schedule shall apply.

Procedure for appointment of Deputy Inspector-General.

13. (1) Whenever a vacancy arises in the office of a Deputy Inspector-General, the Commission shall, within fourteen days from the date the vacancy occurs, by notice in the Gazette and at least two daily newspapers of national circulation, declare the vacancy for the position of the Deputy Inspector-General and request for applications.

(2) Any person qualified in accordance with this Act may make an application to the Commission within fourteen days of the publication of the notice.

(3) The Commission shall consider the applications, vet, conduct public interviews and shortlist at least three persons qualified for the positions advertised for under subsection (1).

(4) The names of the persons shortlisted under subsection (3) shall be published in the Gazette.

(5) The Commission shall within seven days from the date of short listing of qualified candidates under subsection (3), forward the shortlisted names to the President for appointment.

(6) The President shall, within seven days of receipt of the names forwarded under subsection (5), by notice in the Gazette, appoint a person as the Deputy Inspector-General.

(7) For purposes of appointment of the Deputy Inspector General before the establishment of the Commission, the procedure set out in the Third Schedule shall apply.

General provisions on recruitment of Inspector-General and Deputy Inspector-General.

14. In the entire recruitment and appointment process of the Inspector-General or Deputy Inspector-General, the Commission, Parliament and President, as the case may be, shall —

(a) comply with the values and principles set out under the Constitution, and in particular, Article 10, 27 and 232 of the Constitution; and

(b) ensure that at all times one of the three positions of the Inspector-General and the two Deputy Inspector-Generals is of opposite gender.

Removal of Inspector-General.

15. (1) The Inspector-General may be removed from office only for the grounds stipulated under Article 245(7) of the Constitution.

(2) A person desiring the removal of the Inspector-General on any ground specified in subsection (1) may present a petition to the Commission setting out the alleged facts constituting that ground.

(3) The Commission shall consider the petition and, if at least two thirds of the members present and voting agree that it discloses a ground under subsection (1), the Commission shall recommend to Parliament the removal of the Inspector-General.

(4) Parliament shall consider the petition and, if it is satisfied that it discloses a valid ground under subsection (1), forward the petition to the President.

(5) On receiving a petition under subsection (4), the President—

(a) shall appoint a tribunal in accordance with subsection (6); and

(b) may suspend the Inspector General, as the case may be pending the outcome of the petition.

(6) The tribunal shall consist of—

(a) a person who holds or has held office as a judge of a superior court, who shall be the chairperson;

(b) three persons who are qualified to be appointed as judges of the High Court; and (c) one other member who is qualified to assess the facts in respect of the particular ground for removal.

(7) The tribunal shall investigate the matter expeditiously, report on the facts and make a binding recommendation to the President, who shall act in accordance with the recommendation within seven days.

(8) A person suspended under this section shall be entitled to continue to receive one-half of the remuneration and benefits of the office while suspended.

Temporary absence of the Inspector-General.

16. Where the Inspector-General is suspended from office under section 15 or incapable of performance of his or her functions, the President may appoint the Cabinet Secretary to act as the Inspector-General, for a period not exceeding twenty eight days.

Removal of Deputy Inspector-General.

17. (1) A Deputy Inspector-General may be removed from office only for—

(a) serious violation of the Constitution or any other law, including a contravention of Chapter Six of the Constitution;

(b) gross misconduct, whether in the performance of the functions of the office or otherwise;

(c) physical or mental incapacity to perform the functions of the office;

(d) incompetence;

(e) bankruptcy; or

(f) any other just cause.

(2) A person desiring the removal of a Deputy Inspector-General on any of the grounds specified in subsection (1), may present a petition to the Commission setting out the alleged facts constituting that ground.

(3) The Commission shall, subject to Article 47 of the Constitution, consider the petition, and, if at least two thirds majority of all the members are satisfied that it discloses a ground under subsection (1)-

(a) investigate the matter expeditiously;

(b) consider the facts or any evidence arising out of the investigations under paragraph (b); and

(c) if at least two thirds majority of all the members, excluding the person under investigation, are satisfied that the allegation is based on facts, report on the facts and make a binding recommendation to the President.

(4) The President shall act in accordance with the recommendation of the Commission under subsection (3) within fourteen days.

(5) Pending the investigations under subsection (3), the President may, on the advice of the Commission, suspend the Deputy Inspector-General.

(6) The Deputy Inspector-General suspended under subsection (5) shall be entitled to continue to receive one half of the remuneration and benefits of the office while so suspended.

Term of office.

18. The Inspector-General shall be appointed for one term of four years and shall not be eligible for reappointment.

Oath of office.

19. Before taking up the office, the Inspector-General, and Deputy Inspectors-General shall each make and subscribe to the oath or affirmation set out in the Fourth Schedule before the Chief Justice.

Vacancy and filling of vacancy.

20. (1) The office of the Inspector-General or Deputy-Inspectors-General shall become vacant if the holder —

(a) dies;

(b) resigns from office by a notice in writing addressed to the President; or

(c) is removed from office in accordance with the Constitution or this Act.

(2) Where a vacancy occurs in the office of the Inspector-General or Deputy Inspector-General, the President shall appoint a replacement in accordance with sections 12 and 13.

Requirement for consultation.

21. All appointments under this Part required to be made with the approval of the National Assembly shall be made in consultation with the Prime Minister.

**PART III – CONSTITUTION, ADMINISTRATION,
FUNCTIONS AND POWERS OF THE KENYA POLICE
SERVICE**

Composition of the Kenya Police Service.

22. (1) The Kenya Police Service shall consist of the ranks set forth in the First Schedule.

(2) The Cabinet secretary may on the advice of the Commission from time to time, by Order published in the Gazette, amend the Schedule.

Functions of the Deputy Inspector- General of the Kenya Police Service.

23. The Deputy Inspector-General for the Kenya Police Service shall subject to the direction, command and control of the Inspector-General—

(a) be responsible for the effective and efficient day-to day administration and operations of the Kenya Police Service;

(b) implement policies and directions of the Service in relation to the Kenya Police Service;

(c) prepare the budget, planning and provision of support for the Kenya Police Service;

(d) establish and maintain police stations, outposts, units or unit bases in the counties and determine the boundaries of the police stations, outposts or unit bases and establish a facility in each police station for receiving, recording and reporting of complaints from members of the public;

(e) manage, monitor and evaluate the Kenya Police Service;

(f) undertake the supervision of the Kenya Police Service;

(g) coordinate training in the Kenya Police Service;

- (h) provide internal oversight of the Kenya Police Service;
- (i) establish and maintain a relationship between the Kenya Police Service and the community;
- (j) improve transparency and accountability in the Kenya Police Service;
- (k) co-operate and engage in joint security operations with the Deputy Inspector-General, in charge of the Administration Police Service, other Government departments or other security organs to ensure the safety and security of the public.
- (l) implement the decisions of the Inspector-General, and
- (m) perform such other duties as may be assigned by the Inspector-General, the Commission, or as may be prescribed by this Act or by any other written law.

Functions of the Kenya Police Service.

24. The functions of the Kenya Police Service shall be the—

- (a) provision of assistance to the public when in need;
- (b) maintenance of law and order;
- (c) preservation of peace;
- (d) protection of life and property;
- (e) investigation of crimes;
- (f) collection of criminal intelligence;
- (g) prevention and detection of crime;
- (h) provision of specialized stock theft prevention services;
- (i) apprehension of offenders;

(j) enforcement of all laws and regulations with which it is charged; and

(k) performance of any other duties that may be prescribed by the Inspector-General under this Act or any other written law from time to time.

**PART IV— CONSTITUTION, ADMINISTRATION,
POWERS AND FUNCTIONS OF THE
ADMINISTRATION POLICE SERVICE**

Composition of the Administration Police Service.

25. (1) The Administration Police Service shall consist of the ranks set out in the Second Schedule.

(2) The Cabinet Secretary may, on the advice of the Commission, from time to time, by Order published in the Gazette, amend the Schedule.

**Functions of the Deputy Inspector-General,
Administration Police.**

26. The Deputy Inspector-General in charge of the Administration Police, shall subject to the direction, command and control of the Inspector-General —

(a) be responsible for the effective and efficient day-to-day administration and operations of the Administration Police Service;

(b) provide strategic guidance and direction for the Administration Police Service;

(c) prepare the budget, planning and provision of support for the Administration Police Service;

(d) monitor and evaluate the Administration Police Service;

(e) undertake the supervision of the Administration Police Service;

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- (f) establish and maintain outposts, units or unit bases in the county and determine the boundaries of the outposts or unit bases and establish a facility in each police post or other premises for receiving, recording and reporting to the Independent Police Oversight Authority of complaints from members of the public;
 - (g) coordinate training in the Administration Police Service;
 - (h) provide internal oversight of the Administration Police Service;
 - (i) establish and maintain a relationship between the Administration Police Service and the community;
 - (j) improve transparency and accountability in the Administration Police Service;
 - (k) co-operate and engage in joint security operations with the Deputy Inspector-General in charge of the Kenya Police Service, other Government departments or other security organs to ensure the safety and security of the public;
 - (l) implement the decisions of the Inspector-General, and
 - (m) perform such other duties as may be assigned by the Inspector-General or the Commission, or as may be prescribed by this Act or any other written law.

Functions of the Administration Police Service.

27. The functions of the Administration Police Service shall be the —

- (a) provision of assistance to the public when in need;
- (b) maintenance of law and order;
- (c) preservation of peace;
- (d) protection of life and property;

- (e) provision of border patrol and border security;
- (f) provision of specialized stock theft prevention services;
- (g) protection of Government property, vital installations and strategic points as may be directed by the Inspector-General;
- (h) rendering of support to Government agencies in the enforcement of administrative functions and the exercise of lawful duties;
- (i) co-ordinating with complementing Government agencies in conflict management and peace building;
- (j) apprehension of offenders;
- (k) performance of any other duties that may be prescribed by the Inspector-General under this Act or any other written law from time to time.

PART V —THE DIRECTORATE OF CRIMINAL INVESTIGATION

Establishment of the Directorate of Criminal Investigation Department.

28. There is established the Directorate of Criminal Investigation which shall be under the direction, command and control of the Inspector-General.

Qualifications of the Director of Criminal Investigation.

29.(1) There shall be a Director of Criminal Investigation who shall be appointed in accordance with section 30.

(2) The Director of Criminal Investigation shall hold office for one term of five years and shall not be eligible for reappointment.

(3) The Commission shall appoint the Director on such terms and conditions as the Commission may determine.

(4) A person shall be qualified for appointment as the Director of Criminal Investigations if the person—

(a) is a citizen of Kenya;

(b) holds a degree from a University recognized in Kenya;

(c) has had at least ten years' proven experience at management level of a public institution;

(d) has had a distinguished career in his field;

(e) has knowledge and experience in criminal investigation or policing;

(f) has proven relevant experience in any of the following fields—

(i) management;

(ii) law;

(iii) economics;

(iv) change management;

(v) finance;

(vi) governance; or

(vii) public administration; and

(g) meets the requirements of Chapter Six of the Constitution.

(5) The Director of Criminal Investigation shall be a State officer for the purposes of Article 260 of the Constitution.

(6) Before assuming office, the Director of Criminal Investigation shall take and subscribe to the oath of office prescribed under the Fourth Schedule.

(7) The Director of Criminal Investigation shall, in the performance of the functions and duties of office, be responsible to the Inspector-General.

(8) The Director of Criminal Investigation shall be—

(a) the chief executive officer of the Directorate;

(b) the accounting officer of the Directorate;

(c) responsible for—

(i) implementing the decisions of the Inspector-General;

(ii) efficient administration of the Directorate;

(iii) the day-to-day administration and management of the affairs of the Directorate; and

(iv) the performance of such other duties as may be assigned by the Inspector General, the Commission, or as may be prescribed by this Act, or any other written law.

Procedure for appointment of the Director.

30. (1) Whenever a vacancy occurs in the office of Director of Criminal Investigation, the Commission shall, by notice in the Gazette and at least two daily newspapers of national circulation, declare a vacancy and request for applications.

(2) Any person qualified in accordance with this Act may make an application to the Commission within fourteen days of the publication of the notice.

(3) The Commission shall consider the applications, conduct public interviews and shortlist at least three persons qualified for the positions advertised.

(4) The names of the shortlisted persons under subsection (3) shall be published in the Gazette.

(5) The Commission shall, within seven days from the date of publication of names under subsection (4), forward the shortlisted names to the President.

(6) The President shall, within seven days of receipt of the names forwarded under subsection (5), by notice in the Gazette appoint a person as the Director of Criminal Investigation.

(7) For purposes of appointment of the Director of Criminal Investigation before the establishment of the Commission, the procedure set out in the Third Schedule shall apply with necessary modifications.

Removal of the Director.

31. (1) The Director of Criminal Investigation may be removed from office only for—

(a) serious violation of the Constitution or any other law, including a contravention of Chapter Six thereof;

(b) gross misconduct, whether in the performance of functions or otherwise;

(c) physical or mental incapacity to perform the functions of office;

(d) incompetence; or

(e) bankruptcy, or

(f) any other just cause.

(2) A person desiring the removal of the Director of Criminal Investigation on any ground mentioned in subsection (1) may present a petition to the Commission setting out the alleged facts constituting that ground.

(3) The Commission shall consider the petition and, if at least two-thirds of the members present and voting agree that it discloses a ground under subsection (1), the Commission shall-

- (a) investigate the matter expeditiously;
 - (b) consider the facts or any evidence arising out of the investigations under paragraph (a), and
 - (c) if at least two-thirds of all the members, excluding the person under investigation, are satisfied that the allegation is based on fact, report on the facts and make a binding recommendation to the President.
- (4) The President shall act in accordance with the recommendation of the Commission under subsection 93) within fourteen days.
- (5) Pending the investigation under subsection (3), the President may, on the advice of the Commission, suspend the Director
- (6) The Director of Criminal Investigation suspended under this section shall be entitled to continue to receive one-half of the remuneration and benefits of the office while suspended.

Vacancy and filling of vacancy.

32. (1) The office of the Director of Criminal Investigation shall become vacant if the holder —

- (a) dies;
- (b) resigns from office by a notice in writing addressed to the President; or
- (c) is removed from office in accordance with the Constitution or this Act.

(2) Where a vacancy occurs in the office of the Director of Criminal Investigation the President shall appoint a replacement in accordance with section 30.

Staff of the Directorate.

33. The Directorate shall have such number of officers as may be assigned from time to time by the Commission on the recommendation of the Directorate.

Functions of the Director.

34. The Director of Criminal Investigation shall—

- (a) be responsible for the effective and efficient administration and operations of the Directorate;
- (b) provide strategic guidance and direction for the Directorate;
- (c) be responsible for the preparation of the budget and planning for the directorate;
- (d) monitor and evaluate the Directorate;
- (e) undertake supervision of the Directorate;
- (f) coordinate training, research and development in the Directorate;
- (g) provide internal oversight of the Directorate;
- (h) improve transparency and accountability in the Directorate.
- (i) co-operate and engage in joint security operations with the Deputy Inspectors-General of both the Kenya Police Service and the Administration Police Service, other Government departments and security organs, where necessary, when relevant, to ensure the safety and security of the public, and
- (j) perform any other functions that may be assigned by the Inspector-General under this Act or any other law.

Functions of the Directorate.

35. The Directorate shall—

- (a) collect and provide criminal intelligence;
- (b) undertake investigations on serious crimes including homicide, narcotic crimes, human trafficking, money laundering, terrorism, economic crimes, , piracy, organized crime, and cyber crime among others;
- (c) maintain law and order;
- (d) detect and prevent crime;
- (e) apprehend offenders;
- (f) maintain criminal records;
- (g) conduct forensic analysis;
- (h) execute the directions given to the Inspector-General by the Director of Public Prosecutions pursuant to Article 157 (4) of the Constitution;
- (i) coordinate country Interpol Affairs;
- (j) investigate any matter that may be referred to it by the Independent Police Oversight Authority; and
- (k) perform any other function conferred on it by any other written law.

Funds of the Directorate.

36. (1) The funds of the Directorate shall consist of-

- (a) monies provided by Parliament for purposes of the Directorate;
- (b) such monies or assets as may accrue to the Directorate in the performance of its functions or the exercise of its powers under this Act or any other written law, and

(c) all monies from any other source provided or donated to the Directorate.

(2) Notwithstanding subsection (1), any funds donated or lent, or any gift made to the Directorate shall be made public.

Financial Year.

37. The financial year of the Directorate shall be the be-

(a) the period beginning on the day on which this Act comes into operation and ending on the thirtieth of June next following; and

(b) subsequently, the period of twelve months commencing on the first of July of every year and ending on the thirtieth of June of the following year.

Annual estimates.

38. (1) At least three months before the commencement of each financial year, the Director of Criminal Investigation shall cause to be prepared estimates of the revenue and expenditure of the Directorate for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Directorate for the financial year concerned, and in particular shall provide for-

(a) the payment of salaries , allowances and other charges in respect of the staff of the directorate;

(b) the payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Directorate;

(c) the maintenance of the assets of the Directorate;

(d) the funding of operations, training, research and development of the activities of the Directorate;

(e) the creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Directorate may think fit.

(3) The annual estimates shall be approved by the Directorate before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval, and after the Cabinet Secretary has given approval the Directorate shall not increase any sum provided in the estimates without the consent of the Cabinet Secretary.

Accounts and audit.

39. (1) The Directorate shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Directorate.

(2) Within a period of three months after the end of each financial year the Directorate shall submit to the Auditor-General the accounts of the Directorate in respect of that year together with-

(a) a statement of the income and expenditure of the Directorate during that year, and

(b) a statement of the assets and liabilities of the Directorate on the last day of the financial year.

(3) The annual accounts of the Directorate shall be prepared, audited and reported upon in accordance with Articles 226 and 229 of the Constitution and the Public Audit Act.

PART VI— COUNTY POLICING AUTHORITIES

Designation of police stations.

40. (1) The Inspector-General may, by a notice in the Gazette designate police stations.

(2) In designating police stations under subsection (1), the Inspector-General shall ensure that such police stations are equitably distributed throughout each County.

(3) The police stations under subsection (1) shall be the unit for police service delivery.

(4) Each police station shall —

(a) be the centre for the administrative and command functions of all police services under the Service in one station; and

(b) provide room for operational creativity to the police officers from all the services under the Service.

(5) The Inspector General shall ensure the development of procedures which facilitate uniform keeping of records at all police stations.

(6) Each police station shall register the victims of crime and violence within their areas of jurisdiction and establish support schemes for them.

(7) Each station shall have a facility to receive, record and report complaints against police misconduct.

(8) The Inspector-General may establish outposts and other units which shall reflect the principles under the Constitution and this section.

County Policing Authority.

41. (1) There shall be established a County Policing Authority in respect of each county which shall comprise—

(a) the Governor or a member of the County Executive Committee appointed by the Governor, who shall be the chairperson;

(b) county representatives appointed by the Inspector-General, who shall comprise the heads of the Kenya Police Service, the Administration Police Service, the National

Intelligence Service and the Directorate of Criminal Investigation at county level, and a representative of the Inspector-General;

(c) two elected members nominated by the County Assembly;

(d) the chairperson of the County Security Committee;

(e) at least six other members appointed by the Governor, from among the following categories of persons ordinarily resident in the county—

(i) the business sector;

(ii) community based organizations;

(iii) women;

(iv) persons with special needs;

(v) religious organizations; and (vi) the youth.

(2) The members referred to in subsection (1) (e) shall be recruited through a competitive process by the office employing public officers in the county.

(3) The names of members nominated under subsection (1) (e) shall be forwarded to the County Assembly for vetting after which the names shall be submitted to the Governor who shall appoint not fewer than seven nor more than ten members.

(4) In nominating and appointing members under subsection (1) (e) the nominating bodies, public service office at the County level and Governor shall—

(a) uphold the principle of one third gender representation;

(b) ensure geographical representativeness of the county, and may nominate more than one representative in respect of each category.

(5) Notwithstanding subsection (1)(e), the membership of the County Policing Authority shall be proportional to the number of constituencies in the County.

(6) In the absence of the chairperson, the members shall elect one of their member to chair the meetings of the County Policing Authority.

(7) A person shall not be qualified for appointment as a member under subsection (2), if that person—

(a) has violated the Constitution;

(b) is adjudged bankrupt;

(c) is not of good character or moral standing;

(d) has been convicted of a felony; or

(e) has not been resident or employed in the county for a continuous period of not less than three years.

(7) Members appointed under subsection (1)(e) shall serve for a term of two years and shall be eligible for reappointment for one further term.

(8) The Commission in consultation with the Cabinet Secretary shall issue and publish in the Gazette guidelines to be followed during the nomination, appointment, removal from office, vacancy of office and filling of vacancy of members of the Authority.

(9) The functions of the Authority shall be to—

(a) develop proposals on priorities, objectives and targets for police performance in the county;

(b) monitor trends and patterns of crime in the county including those with a specific impact on women and children;

(c) promote community policing initiatives in the county;

- (d) monitor progress and achievement of set targets;
 - (e) provide financial oversight of the budget of the County police;
 - (f) provide feedback on performance of the police service at the county level county police;
 - (g) provide a platform through which the public participate on the all aspects to do with county policy and the national police service at county level;
 - (h) facilitate public participation on county policing policy;
 - (i) ensure policing accountability to the public;
 - (j) receive reports from Community Policing Forums and Committees; and
 - (k) ensure compliance with the national policing standards.
- (10) Every Authority shall prepare, publicize and submit quarterly reports to the Inspector-General, Cabinet Secretary, County Assembly and Governor—
- (a) accounting for the status and progress on each of the functions with which it is charged; and (b) the impediments to the performance of those functions.
- (11) The members of the Authority shall in their first meeting elect one of their own to serve as Secretary to the Authority.
- (12) A person elected as secretary shall be based at the Governor’s office and shall not be a police officer.
- (13) Nothing in this section shall authorize any Authority to interfere with —
- (a) the investigation of any particular offence or offences;
 - (b) the enforcement operations of the law against any particular person or persons;

(c) the employment, assignment, promotion, suspension or dismissal of any member of the Service; or

(d) the operations of the Service.

Meetings of the Authorities.

42. (1) Every County Policy Authority shall meet at least once every three months at a time and venue to be determined by the Chairperson.

(2) The Cabinet Secretary shall issue policy guidelines on the conduct of business of the Authority.

(3) The quorum of the Authority shall be fifty percent of the total members.

Payment of allowances.

43. Members of the Authority shall be paid such allowances as may be determined from time to time by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission in accordance with rules published in the Gazette.

Funds for County Policing Authorities.

44. The expenses of the County Policing Authorities shall be met by the Service.

**PART VII —GENERAL FUNCTIONS, POWERS,
OBLIGATIONS AND RIGHTS OF POLICE OFFICERS IN
THE SERVICE**

Officer deemed to be on duty.

45. A police officer shall for the purposes of this Act, be considered to be always on duty when required and shall perform the duties and exercise the powers granted to him under this Act or any other law at any place in Kenya where he or she may be deployed.

Rights of police officers.

46. (1) Subject to section 47, a police officer shall be entitled to all the rights set out in the Constitution.

(2) Working hours of police officers shall be reasonable and where excessive overtime is required police officers shall be compensated with commensurate periods of rest, and they shall be allowed a minimum time of rest during and in between shifts.

Limitation of rights and fundamental freedoms of police officers.

47. (1) Subject to Article 24, 25 and 35 of the Constitution, the rights and fundamental freedoms of an officer of the Service may be limited for the purposes, in the manner and to the extent set out by law.

(2) A limitation of a right or fundamental freedom under subsection (1) shall be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom and shall be limited only for purposes of ensuring—

- (a) the protection of classified information;
- (b) the maintenance and preservation of national security;
- (c) the security and safety of officers of the Service;
- (d) the independence and integrity of the Service; and
- (e) the enjoyment of the rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others.

(3) A limitation of a right or fundamental freedom under this section shall relate to—

- (a) the right to privacy to the extent of allowing—
 - (i) a person, home or property to be searched;

- (ii) possessions to be seized;
 - (iii) information relating to a person's family or private affairs to be required or revealed; or
 - (iv) the privacy of a person's communications to be investigated;
- (b) the freedom of expression to the extent of limiting the freedom to impart information for officers of the Service;
- (c) the freedom of the media;
- (d) the right to access to information to the extent of protecting the Service from—
- (i) demands to furnish persons with information; and
 - (ii) publicizing information affecting the nation;
- (e) the freedom of association to the extent of limiting the right of officers of the Service from joining or participating in the activities of any kind of association other than those authorized under this Act;
- (f) the right to assemble, demonstrate, picket and petition public authorities to the extent of ensuring discipline in the Service; and
- (g) the right to fair labour relations to the extent of prohibiting officers of the Service from joining and participating in the activities of a trade union and going on strike.
- (4) An officer shall not be barred from voting at any election if, under the laws governing the said election, he or she has a right to vote.

Access to information.

48. Subject to Article 244 of the Constitution and any other law enacted pursuant to Article 35 of the Constitution, a limitation of a right shall be reasonable and justifiable in an open and democratic society based on

human dignity, equality and freedom and shall be limited only for purposes of ensuring-

- (a) the protection of classified information;
- (b) the maintenance and preservation of national security;
- (b) the security and safety of officers in the Service;
- (c) the independence and integrity of the Service; and
- (e) the enjoyment of the rights and fundamental freedoms by any individual, does not prejudice the rights and fundamental freedoms of others.

General powers of police officers.

49. (1) Subject to Article 244 of the Constitution and the Bill of Rights, a police officer may exercise such powers and shall perform such duties and functions as are by law imposed or conferred on or assigned to a police officer.

(2) Where any duty, power or discretion is imposed or conferred by this Act or any other law on a police officer of any specified rank or holding any specified office, the police officer, shall, in the performance of such duty or the exercise of such power or discretion, and subject to the lawful orders and directions of any police officer to whom the police officer is directly subordinate, and any senior police officer, if the occasion arises where it is expedient to do so, perform any such duty or exercise any such power or discretion.

(3) Police officers shall make a report of all daily occurrences and incidents encountered and make it available to their superior.

(4) A police officer who performs an official duty or exercises police powers shall perform such duty or exercise such power in a manner that is lawful.

(5) Where a police officer is authorized by law to use force, the officer shall do so in compliance with the guidelines set out in the Sixth Schedule.

(6) Every police officer shall be competent to serve or execute any summons, warrant or other process whether directed to him or to any other officer.

(7) The storage and use of information by any member of the Service shall be done in compliance with Article 31 of the Constitution, and all other relevant laws and regulations that apply.

(8) The Inspector-General may make regulations on handling of information by the Service.

(9) Matters of a personal nature and operational information in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

(10) A police officer shall respect the law, regulations and the Service Standing Orders, and to the best of their capability, prevent and oppose any violations of them.

(11) A police officer who has reason to believe that a violation of the law has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

(12) No member of the Police shall be subjected to disciplinary hearings or other disadvantage based solely on the fact that he or she has lodged a complaint with or given evidence before or information to the Independent Police Oversight Authority or other authorities or organs vested with reviewing or remedial power.

(13) A police officer who abuses any powers conferred by this Act commits an offence and liable to disciplinary or criminal action and a person whose rights are violated by a police officer shall be entitled to redress and compensation upon the decision of a court, tribunal or other authority.

Police records.

50. (1) A police officer in charge of a police station or other post, unit or formation shall keep a record in such form as the Inspector-General may, in consultation with the Deputy Inspector-General, direct and shall record all complaints and charges preferred, the names of all persons arrested and the offences with which they are charged.

(2) Notwithstanding anything to the contrary contained in any law in force, no fee shall be chargeable on any bail bond in a criminal case, recognizance to prosecute or give evidence, or recognizance or personal appearance or otherwise, issued or taken by a police officer.

(3) Any complaint made against any police officer shall be recorded and reported to the Independent Police Oversight Authority.

(4) A police officer who fails to record and report any complaint made under this section, commits an offence.

Obedience to orders and warrants and detection of crimes, etc.

51. (1) A police officer shall—

(a) obey and execute all lawful orders in respect of the execution of the duties of office which he may from time to time receive from his superiors in the Service;

(b) obey and execute all orders and warrants lawfully issued;

(c) provide assistance to members of the public when they are in need;

(d) maintain law and order;

(e) protect life and property;

(f) preserve and maintain public peace and safety ;

(g) collect and communicate intelligence affecting law and order;

(h) take all steps necessary to prevent the commission of offences and public nuisance;

(i) detect offenders and bring them to justice;

(j) investigate crime; and

(k) apprehend all persons whom he is legally authorized to apprehend and for whose apprehension sufficient ground exists.

(2) A police officer who fails to comply with an unlawful order shall not be subjected to disciplinary proceedings.

Power to compel attendance of witnesses at police station.

52. (1) A police officer may, in writing, require any person whom the police officer has reason to believe has information which may assist in the investigation of an alleged offence to attend before him at a police station or police office in the county in which that person resides or for the time being is.

(2) A person who without reasonable excuse fails to comply with a requisition under subsection (1), or who, having complied, refuses or fails to give his correct name and address and to answer truthfully all questions that may be lawfully put to him commits an offence.

(3) A person shall not be required to answer any question under this section if the question tends to expose the person to a criminal charge, penalty or forfeiture.

(4) A police officer shall record any statement made to him by any such person, whether the person is suspected of having committed an offence or not, but, before recording any statement from a person to whom a charge is to be preferred or who has been charged with committing an offence, the police officer shall warn the

person that any statement which may be recorded may be used in evidence.

(5) A statement taken in accordance with this section shall be recorded and signed by the person making it after it has been read out to him in a language which the person understands and the person has been invited to make any correction he may wish.

(6) Notwithstanding the other provisions of this section, the powers conferred by this section shall be exercised in accordance with the Criminal Procedure Code, the Witness Protection Act or any other written law.

(7) The failure by a police officer to comply with a requirement of this section in relation to the making of a statement shall render the statement inadmissible in any proceedings in which it is sought to have the statement admitted in evidence.

Power to require bond for attendance of court.

53.(1) A police officer investigating an alleged offence (not being an offence against discipline) may require any person to execute a bond in such sum and in such form as may be required, subject to the condition that the person shall duly attend court if and when required to do so.

(2) A person who refuses or fails to comply with a requirement lawfully made under subsection (1) commits an offence.

(3) Notwithstanding the foregoing provisions, the powers conferred under this section shall be exercised in strict accordance with the Criminal Procedure Code.

Kenya Police to maintain order on roads, etc.

54. (1) The Kenya Police Service shall—

(a) regulate and control traffic and keep order and prevent obstructions in public places; and

(b) prevent unnecessary obstruction during assemblies, meetings and processions on public roads and streets, or in the neighbourhood of places of worship during the time of worship therein.

(2) A person who disobeys any lawful order given by a police officer under subsection (1) commits an offence, and may be arrested without a warrant unless he gives his name and address and satisfies the police officer that he shall duly answer any summons or other proceedings which may be taken against him.

Power to take photographs, fingerprints and forensic evidence.

55. (1) A magistrate or a police officer, and any other person appointed to give certificates under subsection (2) of section 142 of the Criminal Procedure Code, may take, or cause to be taken in his presence, for the purposes of record and identification, the measurements, photographs, footprints and casts thereof, palm-prints, finger-prints and other forensic evidence of any person in lawful custody or who is subject to police supervision.

(2) The Inspector-General shall prescribe in the Service Standing Orders the form upon which footprints, palm-prints, finger-prints and other forensic evidence may be taken in accordance with this section.

(3) The magistrate, police officer or person appointed as the case may be, shall certify on the prescribed form that the foot prints, finger-prints, palm-prints and other forensic evidence have been taken by him, or caused to be taken in his presence, in accordance with the directions contained on such form, and that the particulars entered on such form are to the best of his knowledge and belief accurate and true.

(4) Subject to subsection (1), if a person is not charged with an offence punishable by imprisonment or is discharged or acquitted by a court, and has not previously been convicted of

an offence so punishable, all records of such measurements, photographs, footprints and casts thereof, palm-prints and fingerprints and any negatives and copies of such photographs or of photographs of such footprints, palm-prints and fingerprints shall immediately be destroyed or handed over to such person.

(5) A person who refuses to permit his measurements, photographs, footprints and casts thereof, palm-prints or fingerprints and other forensic evidence to be taken under this section commits an offence.

(6) Upon conviction under subsection (5), reasonable force may be used to facilitate the taking of measurements, photographs, footprints and casts thereof, palm-prints and finger-prints of the person convicted.

Stoppage and detention.

56. (1) A police officer in uniform may stop and detain any person whom he or she –

(a) witnesses doing any act or thing;

(b) finds in possession of anything, or

(c) suspects of doing any act or thing or being in possession of anything for which a licence, permit or certificate or pass is required under any written law, and may require the person to produce the licence, permit, certificate or pass, provided that a police officer shall use the power to detain as a last resort only.

(2) A person who fails to produce a licence, permit, certificate or pass within forty-eight hours when called upon to do so, may be arrested without a warrant unless he gives his name and address and otherwise satisfies the officer that he will duly answer any summons or any other proceedings which may issue or be taken against him or her.

(3) A police officer who abuses the powers under this section commits an offence.

Power to enter premises and stop vehicles, etc without warrant.

57. (1) Subject to the Constitution, if a police officer has reasonable cause to believe—

(a) that anything necessary to the investigation of an alleged offence is in any premises and that the delay caused by obtaining a warrant to enter and search those premises would be likely to imperil the success of the investigation; or

(b) that any person in respect of whom a warrant of arrest is in force, or who is reasonably suspected of having committed a cognizable offence, is in any premises, the police officer may demand that the person residing in or in charge of such premises allow him free entry thereto and afford him all reasonable facilities for a search of the premises, and if, after notification of his authority and purpose, entry cannot without unreasonable delay be so obtained, the officer may enter such premises without warrant and conduct the search, and may, if necessary in order to effect entry, break open any outer or inner door or window or other part of such premises.

(2) A police officer may stop, search and detain any vehicle or vessel which the police officer has reasonable cause to suspect is being used in the commission of, or to facilitate the commission of, an offence.

(3) A person who fails to obey a reasonable signal given by a police officer in uniform requiring the person to stop any vehicle or vessel commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred thousand shillings, or to both.

(4) A police officer may arrest a person under subsection (3) without a warrant unless the person gives his name and address and otherwise satisfies the police officer that the person will duly answer any summons or other proceedings which may issue or be taken against that person.

(5) A police officer who exercises the powers conferred under this section shall –

- (a) identify himself beforehand;
- (b) record the action;
- (c) record the items taken;
- (d) make a report regarding such exercise and make it available for the superior.

Power to arrest without a warrant.

58. Subject to Article 49 of the Constitution, a police officer may without a warrant, arrest a person—

- (a) who is accused by another person of committing an aggravated assault in any case in which the police officer believes upon reasonable ground that such assault has been committed;
- (b) who obstructs a police officer while in the execution of duty, or who has escaped or attempts to escape from lawful custody;
- (c) whom the police officer suspects on reasonable grounds of having committed a cognizable offence;
- (d) who commits a breach of the peace in the presence of the police officer;
- (e) in whose possession is found anything which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to that thing;
- (f) whom the police officer suspects upon reasonable grounds of being a deserter from the armed forces or any other disciplined service;
- (g) whom the police officer suspects upon reasonable grounds of having committed or being about to commit a felony; or

(h) whom the police officer has reasonable cause to believe a warrant of arrest has been issued.

Arrests and detentions by Police.

59. An arrest by a police officer, whether with or without a warrant, shall be subject to the rules contained in the Fifth Schedule with respect to arrest and detention.

Power to search without warrant in special circumstances.

Cap 75.

60. (1) When a police officer in charge of a police station, or a police officer investigating an alleged offence, has reasonable grounds to believe that something was used in the commission of a crime, is likely to be found in any place and that the delay occasioned by obtaining a search warrant under section 118 of the Criminal Procedure Code will in his opinion substantially prejudice such investigation, he may, after recording in writing the grounds of his belief and such description as is available to him of the thing for which search is to be made, without such warrant, enter any premises in or on which he or she suspects the thing to be and search or cause search to be made for, and take possession of such thing.

(2) Sections 119, 120 and 121 of the Criminal Procedure Code as to the execution of search warrant, and the provisions of that Code as to searches shall apply to a search without a warrant under this section.

(3) For purposes of conducting a search under this section—

(a) the officer shall carry with him, and produce to the occupier of the premises on request by him, the officer's certificate of appointment;

(b) if anything is seized under subsection (1), the police officer shall immediately make a record describing anything so seized, and without undue delay take or cause it to be taken before a magistrate within whose

jurisdiction the thing was found, to be dealt with according to the law.

Power to use firearms.

61.(1) Subject to subsection (2), a police officer shall perform the functions and exercise the powers conferred by the Constitution and this Act by use of non-violent means.

(2) Despite subsection (1), a police officer may use force and firearms in accordance with the rules on the use of force and firearms contained in the Sixth Schedule.

Custody of unclaimed property.

63. (1) A police officer shall—

(a) take charge of all unclaimed property handed to him by any person or found by him to be unclaimed; and

(b) deliver that property without delay to the nearest police station.

(2) Where any property has come into the possession of the Police, the police officer shall furnish an inventory or description of the property within forty eight hours to a magistrate having jurisdiction in the area in which the property is found by, or handed to the magistrate, and the magistrate shall—

(a) give orders for the detention of the property; and

(b) cause a notice to be posted in a conspicuous place in the magistrate's court and at such police station as the magistrate considers necessary.

(3) The notice under paragraph (2)(b) shall describe the property and require any person who may have a claim thereto to appear before the Magistrate or other person specified therein and establish their claim within twelve months from the date of the notice.

(4) Notwithstanding subsection (3), if the unclaimed property is —

(a) liable to deterioration, the magistrate shall deal with it in such a manner as may be appropriate; or

(b) a firearm or ammunition, the magistrate may order that the property be disposed of in such manner as the Inspector-General may prescribe in regulations.

(5) If no owner establishes his claim to the property within twelve months from the date of the notice, the property may be sold in a manner directed by the Magistrate.

(6) Where the unclaimed property has been sold in accordance with subsection (5) the proceeds of sale shall be paid to the person who establishes his claim, or, if no lawful claim to the property has been established, the proceeds shall be paid into the Government Revenue.

Power to apply for summons etc.

64. Subject to this Act or any other law, a police officer may apply before a subordinate court for summons, warrant or other legal process.

Power to erect barriers.

65. (1) Notwithstanding the provisions of any other law, any Gazetted officer or inspector or any police officer in charge of a police station may, if he or she considers it necessary to do so for the maintenance and preservation of law and order or for the prevention or detection of any offence, order an officer to erect or place barriers in or across any road or street or in any public place.

(2) A police officer in uniform may take all reasonable steps to prevent any vehicle from being driven past any barrier, erected pursuant to subsection (1) and a driver who fails to comply with any reasonable signal given by a police officer in uniform requiring the driver to stop the vehicle before the barrier, commits an offence and is

liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred thousand shillings or to both.

(3) The head of the Kenya Police Service in the County shall maintain records of all barriers erected under subsection (1) and the reasons therefor in their respective county and submit these to the respective community policing association.

(4) The records referred in subsection (3) shall state the reasons for laying the barriers and shall be open for inspection by authorized persons.

(5) The Inspector-General shall issue guidelines on erection of barriers.

(6) Members of the public may lodge complaints about the barriers with the County Commander or the Authority.

Protection from personal liability.

66. (1) No matter or thing done by a member, employee or agent of the Service shall, if the matter or thing is done in good faith for the performance and execution of the functions, powers or duties of the Service, render the officer, employee or agent personally liable to any action, claim or demand whatsoever.

(2) Subsection (1) shall not preclude a person from bringing legal proceedings against the Inspector-General in respect of an act or omission of the kind referred to in that subsection if the person can satisfy the court that the police officer or other person would, but for that subsection, have incurred liability for the act or omission.

Public property not to be used privately.

67. (1) Unless specifically authorized by regulations, no police officer shall be entitled to keep or use for his private benefit any article that has been supplied to him at the public expense, but he or she shall

hold every such article at the order and disposal of the state.

(2) A police officer who keeps or uses an article in contravention of subsection (1) commits a disciplinary offence.

Surrender of public property on resignation, etc.

68. (1) A police officer who is dismissed from the Service, or resigns from office, or otherwise leaves the Service, shall forthwith deliver over to the person authorized by regulations or appointed for that purpose every article which has been supplied to him and which he or she has not been expressly authorized to keep or use for his private benefit.

(2) Any person who—

(a) fails to comply with subsection (1); or

(b) returns such property in a damaged condition, the damage not being attributable to the proper discharge of his duties in the Service, commits an offence, and shall be liable on conviction, whether or not any penalty is otherwise imposed, for the cost of replacing such property, or, as the case may require, for the cost of repair, and such cost shall be recoverable by the Government by deduction from any moneys due to such person, and shall be a debt due from such person to the Government.

Restrictions on resignations.

69. (1) No officer below the rank of Deputy Inspector-General shall resign from the Service before the expiry of three months (or such lesser period as the Inspector-General may in particular case accept) after giving notice to the Inspector-General and Commission of his intention to resign.

(2) An officer who is under disciplinary proceedings may not resign from the service without the written permission of the Inspector-General.

(3) The Inspector-General shall ensure that disciplinary proceedings are carried out without delay.

Powers, etc, whilst engaged on duties of prison officer.

70. A police officer engaged in carrying out the duties of a prison officer shall have all the powers, protections and privileges attaching to a prison officer.

Police officers prohibited from taking other employment.

71. (1) No member of the Service other than a Reserve Police officer, shall engage in any trade, business or employment, outside the scope of his duties as an officer of the Service if the trade, business or employment is in conflict of interest with the performance of the police officer's duties.

(2) A member of the Service who intends to engage other forms of employment shall apply for and obtain approval from the Commission.

(3) The Commission may approve or reject the application under subsection (2).

(4) The Commission shall maintain a register of all persons granted approval under subsection (3), indicating the particulars thereof, and shall submit copies of the register to the Cabinet Secretary.

(5) For the avoidance of doubt, the laws on anti-corruption, the Public Officers Ethics Act 2003, and other relevant laws shall apply to members of the Service.

Special police officers.

72. The Commission may, in consultation with the Inspector-General, at anytime, if it appears expedient in the interests of public order and safety so to do, appoint persons to be special police officers for such period and within such area as may be considered necessary, and

every such officer shall, during the period of service as a special police officer, be deemed to be a police officer for the purposes of this Act.

PART VIII—RECRUITMENT, ENLISTMENT AND TRAINING OF POLICE OFFICERS

Oath of office.

73. A police officer shall upon being enlisted, make and sign before an officer authorized by law to administer oaths or before the Inspector-General, in English or Swahili and in such manner as the police officer may declare to be most binding on his conscience, the oath or the affirmation set out in the Fourth Schedule.

Certificate of Appointment.

74. (1) The Inspector-General shall ensure that a certificate of appointment is issued to every person who is appointed as a police officer.

(2) A certificate of appointment shall be in a form prescribed by the regulations and be signed by a Gazetted police officer authorised by the Inspector-General for the purpose.

(3) A police officer shall produce the certificate of appointment issued under subsection (2) on being requested to do so by any person in relation to whom the officer is exercising or is about to exercise a power conferred by this Act.

(4) A failure to comply with subsection (3) shall invalidate any purported exercise of the power that the officer is seeking to exercise.

(5) A certificate issued to a police officer under this section shall be evidence of the officer's appointment not only for the purposes of legal proceedings but for all other purposes of the law.

Leaving the Service.

75. An officer may leave the Service only by the modes prescribed under this Act or the regulations.

Retirement from the Service.

76. (1) A Police officer below the rank of Deputy-Inspector-General shall retire from the Service on attaining the age of sixty years but may, with the approval of the Commission, be permitted to retire on attaining the age of fifty years.

(2) Where the officer retires after serving for more than twenty years and before attaining fifty years, in terms of subsection (1), the benefits payable shall be calculated as if the officer had retired after twenty years of service.

(3) An officer below the rank of sergeant may voluntarily retire from the service upon completion of twelve or twenty years of service.

(4) Subject to subsection (2), where the officer is interdicted from duty in accordance with the Service Standing Orders or any other written law, the officer's appointment as such does not cease only because of such interdiction.

(5) While a police officer is interdicted from duty, the police officer's powers, privileges and benefits as a police officer shall be suspended, but the officer continues to be subject to the same discipline and penalties, and to the same authority, as if the officer had not been interdicted.

Retention in Service.

77. Any police officer whose period of service expires during a state of war or state of emergency or during any time when any regulations are in force under any law relating to a state of emergency may be retained in the Service and his service prolonged for such further period as the Inspector-General may direct, but not for more than six months after the ending of such state or time.

Membership of International Organizations.

78.(1) Police officers may join international police associations in accordance with rules made by the Inspector- General.

Training policy and curriculum.

79. (1) The Commission shall—

Examinations and certification.

81. The Commission shall develop guidelines on examination and certification of police trainees.

PART IX —POLICE SERVICE ASSOCIATIONS

Representation of police officers.

82. Police officers may form associations, and such associations shall be recognized by the Inspector-General, the Commission and the Cabinet Secretary as appropriate associations for consultation in respect of any matter specified in section 69 and any other matter concerning police officers.

Functions of police associations.

83. Police associations formed in accordance with this Act shall be responsible for—

(a) bringing to the notice of the Inspector-General, the Commission and the Cabinet Secretary any the matters affecting the general welfare and efficiency of the Police;

(b) negotiating and reporting for action on behalf of the officers in respect of—

(i) any grievances;

(ii) the terms and conditions of employment; and

(iii) any other matters concerning the police officers.

Recognized associations to make rules.

84. (1) Every recognized police association shall make rules providing for the administration of the association and for carrying out the objects of the association.

(2) The rules made under subsection (1) shall contain provisions in respect of matters prescribed in the Seventh Schedule;

(3) A copy of the rules and any amendment thereto shall be issued to each officer who is a member of the association on demand and on payment of the prescribed fee.

(4) Subject to the Societies Act, the rules of an association, including any amendments, shall be filed with the Registrar-General and shall unless a future date is specified therein, have effect from the date of filing.

Registration requirements.

85. For an association to qualify for registration under this Act, the association shall be required to-

(a) draw its membership from the Service;

(b) comply with the requirements made in accordance with the Seventh Schedule.

**Association to be independent of trade union.
No. 12 of 2007.**

86. An association established in accordance with this Part and any branch thereof shall—

(a) operate and be administered in accordance with the provisions of this Act;

(b) be entirely independent of any trade union within the meaning of the Labour Institutions Act.

**PART X—OFFENCES AGAINST DISCIPLINE BY
POLICE OFFICERS****Internal Affairs Unit.**

87.(1) There is established an Internal Affairs Unit (hereinafter referred to as "the Unit") of the Service which shall comprise of—

(a) an officer not below the rank of assistant Inspector General who shall be the Director;

(b) a deputy director; and

(c) such other staff as the Unit may require.

(2) The functions of the Internal Affairs Unit shall be to—

(a) receive and investigate complaints against the police;

(b) promote uniform standards of discipline and good order in the Service; and

(c) keep a record of the facts of any complaint or investigation made to it.

(3) In the performance of its functions, the Unit shall be subject to Article 47 of the Constitution.

(4) The Unit shall investigate misconduct and hear complaints—

(a) from members of the Service or members of the public;

(b) at the direction of a senior officer;

(c) on its own initiative; or

(d) on the direction of the Inspector-General; or

(e) at the request of the Independent Police Oversight Authority.

(5) Notwithstanding subsection (4)(e) the Authority may at any time intervene and take over the investigations when they have reason to believe the investigations are inordinately delayed or manifestly unreasonable.

(6) The Unit may recommend the following disciplinary actions to the Commission—

- (a) the interdiction of an officer;
- (b) the suspension of an officer;

Penalties for disciplinary offences.

89.(1) A police officer who commits an offence against discipline is liable to be punished by—

- (a) reprimand;
- (b) suspension;
- (c) an order of restitution;
- (d) stoppage of salary increments for a specified period of time, but not exceeding one year;
- (e) reduction in rank;
- (f) dismissal from the Service; or
- (g) any combination of the punishments provided under this section.

(2) The police officer authorized to impose a penalty for a disciplinary offence, shall enter a record of such punishment, the date of the punishment and the offence for which it was inflicted on the record sheet of the police officer punished, a copy of which shall be forwarded to the Commission for review and confirmation.

(3) All disciplinary proceedings under this Part shall be in accordance with the Service internal disciplinary

procedures as approved by the Commission and shall comply with Article 47 of the Constitution.

(4) A police officer facing disciplinary action may be accompanied by another police officer of his choice for assistance and support.

(5) A police officer aggrieved by the decision may appeal first at the County level, then to the Inspector-General and then to the Commission in accordance with regulations.

(6) The sanctions under subsection (1) (c), (d), (e), (f) and (g) only take effect after approval and confirmation by the Commission.

Power to summon witnesses.

90. (1) A police officer empowered to inquire into offences against discipline may summon and examine police officers as witnesses on oath or affirmation and require the production of relevant documents in any matter connected to the inquiry, and may adjourn any such inquiry from time to time as he may consider fit.

(2) Any police officer summoned as a witness under subsection (1) who fails to attend at the time and place specified in the summons, or, having attended, refuses to answer any questions that are lawfully put to him (other than questions which may incriminate him) or fails without reasonable cause to produce any document, commits an offence against discipline.

Recovery of fines by deduction from salary.

91. (1) A fine imposed for an offence against discipline shall be recoverable by one or more deductions from the monthly salary payable to the officer on whom the fine is imposed.

(2) Notwithstanding subsection (1), no deduction, nor the

aggregate of deductions, if more than one fine is outstanding at the same time, shall exceed one-fourth of the gross salary payable in any month.

Loss or damage to property to be made good by recovery from pay.

92. (1) Notwithstanding anything contained in any other law, if any officer pawns, sells, loses by neglect, makes away with or willfully or negligently damages any article entrusted to or lawfully in the possession of the Service and supplied to him, or any property seized or taken charge of by him in the course of his duty, he may, in addition to any other penalty, be ordered to make good, either wholly or partially, 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 deductions from his pay, including allowances, other than rent allowance and trade pay.

(2) Notwithstanding subsection (1), any officer who pawns, sells, loses by neglect, makes away with or willfully or negligently damages any firearms, ammunition, accouterment or uniform commits an offence and is, on conviction, liable to imprisonment for term not exceeding five years, or a fine not exceeding five hundred thousand, or to both.

Prohibition against officer being member of a trade union.

93. (1) A police officer shall not become a member of—

(a) any trade union, or any body or association affiliated to a trade union; or

(b) any body or non-police association the object or one of the objects of which is to control or influence the pay, pensions or terms and conditions of service in the Service, other than an association established and regulated pursuant to Part VIII of this Act.

(2) For the avoidance of doubt, the rights and fundamental freedoms specified under Article 24 (5) of the Constitution, with regard to persons serving in the Service, are limited to the nature and extent specified in this Act or any other written law.

(3) A Police officer who contravenes this section shall be dismissed from the Service and shall forfeit all rights to any pension or gratuity.

Desertion.

94. (1) A police officer who absents himself self from duty without leave or just cause for a period exceeding twenty-one days shall, unless the contrary is proved, be considered to have deserted from the Service.

(2) Upon reasonable suspicion that any police officer has deserted the Service, any police officer may arrest that officer without a warrant, and shall thereupon take him before a magistrate having jurisdiction in the area in which such person deserted or was arrested.

(3) Any police officer who deserts from the Service commits an offence and is liable on conviction to summary dismissal or imprisonment for a term not exceeding two years or to a fine not exceeding one hundred thousand shillings.

Prohibition against torture or cruel treatment.

95. (1) It shall be unlawful for a police officer to subject any person to torture or other cruel, inhuman or degrading treatment.

(2) A police officer who subjects a person to torture commits a criminal offence and shall be liable on conviction to imprisonment for term not exceeding twenty five years.

(3) A police officer who subjects a person to cruel, inhuman or degrading treatment commits a criminal offence and is liable on conviction to imprisonment for term not exceeding fifteen years.

PART XI — COMMUNITY POLICING FORUMS AND COMMITTEES**Objects of community policing.**

96.(1) The Service shall, in order to achieve the objects contemplated in Article 244 of the Constitution, liaise with communities through community policing initiatives, with a view to—

- (a) establishing and maintaining partnership between the community and the Service;
- (b) promoting communication between the Service and the community;
- (c) promoting co-operation between the Service and the community in fulfilling the needs of the community regarding policing;
- (d) improving the rendering of police services to the community at national, county and local levels;
- (e) improving transparency in the Service and accountability of the Service to the community; and
- (f) promoting policing problem identification and policing problem-solving by the Service and the community.

Role of County Policing Authority in community policing.

97.(1) A County Policing Authority shall establish structures to implement community policing in all parts of the county so far as is appropriate.

(2) The Authority shall be responsible for—

- (a) implementation of community policing policies and guidelines;
- (b) facilitation of training members of community policing within the county;

(c) receiving reports from local community policing structures;

(d) preparing county community policing reports for submission to the Cabinet Secretary.

Establishment of area community policing committees and other structures.

98.(1) A police officer in charge of an area shall, in consultation with stakeholders, be responsible for and facilitate the establishment of area community policing committees and other administrative structures.

(2) An area community policing committee shall, subject to subsection (3), consist of representatives of community policing forums in the area concerned elected for that purpose by such policing forums.

(3) A station commander or administrative police post commander and the members elected by the community from time to time for that purpose shall be members of the area community policing committee concerned.

(4) Where appropriate, both the administration police and the Kenya police shall establish joint committees or other structures.

Functions of community policing committees and other structures.

99. A community policing committee or other structure shall perform the functions it considers necessary and appropriate to achieve the objects contemplated in section 96 which may include the functions contemplated in Article 244 (e) of the Constitution.

Procedural matters.

100. (1) The members of every community shall elect as a chairperson and a vice-chairperson from amongst their number.

- (2) The chairperson shall be a civilian member while the vice chairperson shall be a police officer.
- (3) The Committee shall determine its own procedure and cause minutes to be kept of its proceedings; and
- (4) Whenever it deems it necessary, co-opt other members, experts, community leaders to the committee in an advisory capacity.
- (5) Members of community policing forums and committees shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to such forums and committees.
- (6) The quorum for a meeting of the Committee shall be the majority of the members thereof.
- (7) The chairperson of a committee shall preside at every meeting at which present, but if the chairperson is absent from a meeting, the vice-chairperson shall preside, and if both the chairperson and vice-chairperson are absent, the members present shall elect one from among their number own to preside.

PART XII— OFFENCES GENERALLY

Impersonation of police officer or wearing police uniform etc.

101.(1) A person other than a police officer who, without the written authority of the Inspector-General—

- (a) puts on or assumes, either in whole or in part, the uniform, name, designation or description of a police officer, or a uniform, name or designation, resembling or intended to resemble the uniform, name or designation of a police officer; or
- (b) in any way pretends to be a police officer for any purpose which he would not by law be entitled to do of his own authority, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or

to a term of imprisonment not exceeding ten years, or to both.

(2) Notwithstanding subsection (1) a person may, with the approval of the Inspector-General use police uniform for artistic purposes.

Obtaining admission to the Service by fraud.

102.(1) A person who, for the purposes of obtaining admission into the Service, knowingly—

(a) uses or attempts to pass off a forged or false certificate, letter or other document; or

(b) makes a false answer to a question which is put to him by a police officer, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

(2) A police officer may without a warrant arrest a person the police officer reasonably believes has committed an offence under this section.

Assault in execution of duty.

103. Any person who—

(a) assaults, resists or willfully obstructs a police officer in the due execution of the police officer's duties;

(b) assaults, resists or willfully obstructs any person acting in aid of the police officer;

(c) attacks an animal belonging to the Service, or

(d) intentionally or recklessly, destroys police property, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years, or to both.

PART XIII — PROVISION FOR ADDITIONAL OFFICERS**Private use of police officers.**

104.(1) The Inspector-General may on application by any person, station an officer for duty at such place and for such period as the Inspector-General may approve.

(2) Notwithstanding subsection (1), the Inspector-General shall only deploy an officer for private use for the protection of public good or interest.

(3) The monies paid for the private use of the police as specified in subsection (1) shall be paid to the Treasury.

(4) The Inspector-General shall make regulations generally to give effect to this section.

Deployment of additional officers on private property.

105. Where the Inspector-General reasonably considers that the deployment of additional officers in any place is necessary—

(a) for the safety of the private property of any person;

(b) in the interests of any person; or

(c) that there is a reasonable apprehension of a breach of the peace in connection with any such private property; the Inspector-General may station officers for duty on such property place and for such period as the Inspector General may consider necessary.

Additional officers for disturbed or dangerous areas.

106. (1) The Cabinet Secretary may, after consultation with the National Security Council, by notice in the Gazette, and in such other manner as he may direct, declare that an area of Kenya is in a disturbed or dangerous state, or that, by reason of the conduct of the

inhabitants of such area or any class or section of such inhabitants, it is expedient to increase the number of police officers stationed in such area.

(2) Upon publication of a notice under subsection (1) the Inspector-General may—

(a) by order published in the Gazette and in other such manner as the Inspector-General may consider appropriate to bring it to the notice of the persons affected thereby prohibit the possession of arms in the area and order the surrender of all such arms, by all or such of the inhabitants of the area, as may be specified; and

(b) station an additional number of officers in the area.

(3) An order made under subsection (2) (a) requiring the surrender of arms shall specify the times and places at which, and the persons to whom, such surrender shall be made, and shall provide for the safe custody of all arms surrendered, and for return upon revocation or termination of the notice under subsection (1).

(4) If a police officer in any area in which all or any arms have been ordered to be surrendered under paragraph (a) of subsection (2), has reasonable cause to believe that the delay which would occur in obtaining a search warrant would, or would tend to, defeat the purposes of this section, the police officer may, without warrant, enter and search any land, premises or place in or upon which he has reason to believe any arms ordered to be surrendered may be found, and may seize any such arms.

(5) A police officer entering upon any land, premises or place under subsection (4) shall, if required to do so by the occupier thereof, produce to the occupier the officer's certificate of appointment.

(6) Every notice issued under subsection (1) shall state the period for which it is to remain in force, and may, at any time, be withdrawn or continued in force for such further period as the Cabinet Secretary may, in each case, by notice in the Gazette, direct.

(7) In this section, "inhabitants" means all persons who, by themselves or their agents, servants or tenants, occupy or have a lawful interest in any land within an area specified in a notice issued under subsection (1).

(4) If a police officer in any area in which all or any arms have been ordered to be surrendered under paragraph (a) of subsection (2), has reasonable cause to believe that the delay which would occur in obtaining a search warrant would, or would tend to, defeat the purposes of this section, the police officer may, without warrant, enter and search any land, premises or place in or upon which he has reason to believe any arms ordered to be surrendered may be found, and may seize any such arms.

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(7) In this section, "inhabitants" means all persons who, by themselves or their agents, servants or tenants, occupy or have a lawful interest in any land within an area specified in a notice issued under subsection (1).

PART XIV – RECIPROCAL ARRANGEMENTS WITH RECIPROCATING COUNTRIES

Reciprocating country defined.

107. In this Part, "reciprocating country" means any country which the President may, being satisfied that the law of that country contains provisions reciprocal to this Part and that

- (a) the police officers shall be under the command of a senior officer of the Service;
- (b) they shall have and may exercise the powers, and shall be liable to perform the duties, of police officers of equivalent rank in the Service, and shall for that purpose be deemed to be members of the Service;
- (c) any contract of service between such an officer and his Government may be enforced in Kenya in the same way and with the same effect as if it were made between the officer and the Government of Kenya.

PART XV — THE NATIONAL POLICE RESERVE

Composition of the Reserve.

110. (1) The National Police Reserve (hereinafter referred to as "the Reserve") shall consist of such persons resident in Kenya (other than serving members of the Kenya disciplined services) as, having attained the age of eighteen years, volunteer for service and are enrolled as reserve police officers.

(2) The Commission shall determine the maximum number Reserve police officers.

(3) The Reserve may be deployed in Kenya to assist the Kenya Police Service or the Administration Police Service in their respective mandates including in the —

- (a) maintenance of law and order;
- (b) preservation of peace;
- (c) protection of life and property;
- (d) prevention and detection of crime;

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(b) preservation of peace;

(c) protection of life and property;

(d) prevention and detection of crime;

(e) apprehension of offenders; and

(f) enforcement of all laws and regulations with which the Service is charged.

(4) A person serving as a Reserve police officer shall be bound by the same requirements as a police officer and shall be supervised by the Service.

(5) The Commission shall keep, maintain and update a database of all the officers of the Reserve police officers.

(6) The Commission shall upon the commencement of this Act, vet all existing Reserve police officers to assess their suitability and competence, and any such officer who fails the vetting shall not continue to serve the Service.

(7) After the commencement of this Act the Commission may undertake the training of existing Reserve police Officers to ensure that the existing officers are conversant with and conform

Deployment and calling.

113. (1) Any officer for the time being in charge of the Service in a county may, in writing, require any Reserve police officer resident in the county to perform the duties of a police officer.

(2) The Inspector-General may, in consultation with the Cabinet Secretary, call out all or any Reserve police officers during a state of war or a state of emergency under Article 58 of the Constitution, and when so called out they shall remain on duty until released from duty by the Inspector-General.

(3) The Inspector-General shall require any Reserve police officer called out under subsection (2) to undergo such training as the Inspector-General may determine.

Disciplinary powers over Reserve officers.

114. Every Reserve police officer who is required to perform the duties of a police officer or undergo training, or undergo who has been called out under section 104, or who otherwise performs or purports to perform any such duties, shall be subject to the disciplinary provisions which, from time to time, apply to officers of the Service of equivalent rank.

Pay and allowances.

115. (1) Subject to subsection (2), a Reserve police officer shall serve voluntarily and shall not be entitled to claim any remuneration for his services save for such allowances as may be prescribed.

(2) When mobilized pursuant to section 113(2), a Reserve police officer shall receive such pay and allowances as may be prescribed for a police officer of corresponding rank and seniority in such rank.

PART XVI—FINANCIAL PROVISIONS**Allocations of Funds.**

116.(1) The National Assembly shall allocate adequate funds to enable the Service to perform its functions and the budget for the Service shall be a separate vote.

(2) The Inspector-General shall ensure that every police station, post, outposts, unit, unit base and county authority is allocated sufficient funds to finance its activities.

Funds of the Service

117. (1) The funds of the Service shall consist of—

(a) monies allocated by the National Assembly for the purposes of the Service; and

(b) such monies as may be lawfully granted, donated or lent to the Service from any other source, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance.

(2) All funds given to the Service under subsection (1)(b) shall be made public.

Financial year.

118. The financial year of the Service shall be—
(a) the period commencing on the date when this Act comes into force ending on the thirtieth of June next following; and

(b) subsequently, the period of twelve months ending on the thirtieth June of each year.

Annual estimates.

119. (1) At least three months before the commencement of each financial year, the Inspector-

General shall cause to be prepared the estimates of the revenue and expenditure of the Service for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Service for the financial year concerned, and in particular shall provide for—

(a) the payment of salaries, allowances and other charges in respect of the staff of the Service;

(b) the payment of pensions, gratuities and other benefits which are payable out of the funds of the Service;

(c) the maintenance of the assets of the Service;

(d) the funding of operations, training, research and development of activities of the Service;

(e) the creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment, and in respect of such other matters as the Service may consider appropriate.

Approval of annual estimates.

120. The annual estimates shall be approved by the Service before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval, and after the Cabinet Secretary has given approval, the Service shall not increase any sum provided in the estimates without the consent of the Cabinet Secretary.

Expenditure.

121. No expenditure shall be incurred for the purposes of the Service except in accordance with funds voted or appropriated by the National Assembly.

Accounts and audit

122. (1) The Service shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Service.

(2) Within a period of three months after the end of each financial year, the Service shall submit to the Auditor General the accounts of the Service in respect of that year together with—

(a) a statement of the income and expenditure of the Service during that year; and

(b) a statement of the assets and liabilities of the Service on the last day of that financial year.

(3) The annual accounts of the Service shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the Public Audit Act, 2003.

PART XVII — MISCELLANEOUS PROVISIONS**Police station to be lock-up.**

123.(1) Every police station shall be deemed to be a lockup in which a person suspected of having committed an offence may be temporarily detained.

(2) In every police station there shall be provided a secure place for detention.

(3) Detention shall be carried out in accordance with the requirements as set out in the Eighth Schedule

Regulations by the Commission.

124.(1) The Commission may make regulations for the better carrying out of the purposes of this Act, and in particular for —

(a) regulating the hours of duty for police officers and the keeping and signing of records of attendance;

- (b) regulating and coordinating duties to be performed by police officers;
- (c) regulating the granting of leave to police officers;
- (d) prescribing arrangements and procedures for providing, assisting in or co-coordinating staff development programmes; and
- (e) the employment of civilian staff within the Service.

Regulations by the Inspector-General.

125. The Inspector-General may make regulations for the better carrying into effect of the purposes of this Act, including for—

- (a) the description and issue of arms, ammunition, uniform, accoutrements and necessaries to be supplied to the Service;
- (b) prescribing and providing the use of powers under this Act, and
- (c) generally for the good order and management of the Service.

Role of Cabinet Secretary.

126. (1) The Cabinet Secretary shall be responsible for—

- (a) providing policy guidelines to the Service;
- (b) monitoring and evaluating the performance of the functions of the Service;
- (c) inspecting the facilities of the Service;
- (d) facilitating the involvement of the public in the activities of the Service;
- (e) facilitating the functioning of the county policing authorities; and

(f) receiving regular reports from the county policing authorities.

(2) The Cabinet Secretary shall—

(a) set up an inspectorate for purposes of monitoring compliance with the policy, overall performance and functioning of the county policing authorities;

(b) establish a Police Reform Unit for ensuring continuous and sustainable police reforms;

(c) develop guidelines on the promotion of human rights by the Service and in particular making police premises accessible and equipped to enable them to support—

(i) child protection;

(ii) persons with disabilities; and

(iii) persons with special needs.

Role of the National Security Council.

127. Pursuant to Article 240 (3) and (6) of the Constitution, the National Security Council shall exercise supervisory control and perform the following functions with respect to the Service—

(a) integrate the national and foreign policies relating to national security into the policing policy and programmes in order to enable the Service to cooperate with other national security organs and to function effectively;

(b) assess and appraise the objectives, commitments and risks to the country in respect of actual and potential national security capabilities.

Regulations, Rules etc.

128. All regulations, rules, standing orders or any other form of subsidiary legislation or guidelines made under this Act

shall be published in the Gazette and notified to the public.

General penalty.

129. Any person who commits an offence under this Act for which no other penalty is expressly provided shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand shillings or to both.

PART XVIII—REPEALS AND SAVINGS.

Repeal of Cap. 84 and Cap. 85.

130. The Police Act and the Administration Police Act are repealed.

Saving and transitions.

131. Notwithstanding section 131—

(a) any reference to the Police Act or the Administration Police Act under any written law shall be construed as a reference to this Act.

(b) any regulation or standing order or other administrative measure taken or issued under the Police Act or the Administration Police Act in force immediately before the commencement of this Act, shall be deemed to have been made and issued under this Act.

(c) all Standing Orders, Rule or Regulations existing before the commencement of this Act shall be reviewed, amended or revised to conform to the provisions of the Constitution and this Act within twelve months after coming into force of this Act.

Continuous and sustainable police reforms.

132. (1) The Inspector-General shall put in place a system of ensuring continuous and sustainable police reforms with regard to Service operational matters.

(2) The Cabinet Secretary may put in place a system of ensuring continuous and sustainable police reforms with regard to policy matters.

FIRST SCHEDULE (s.22)

RANKING STRUCTURE IN THE KENYA POLICE SERVICE

1. Deputy Inspector-General.
2. Assistant Inspector-General.
3. Senior Superintendent.
4. Superintendent.
5. Assistant Superintendent.
6. Chief Inspector.
7. Inspector.
8. Senior Sergeant.
9. Sergeant.
10. Corporal.
11. Constable.

SECOND SCHEDULE (s. 25)

RANKING STRUCTURE IN THE ADMINISTRATION POLICE SERVICE

1. Deputy Inspector-General.
2. Assistant Inspector-General.
3. Senior Superintendent.
4. Superintendent.
5. Assistant Superintendent.
6. Chief Inspector.
7. Inspector.
8. Senior Sergeant.
9. Sergeant.

10. Corporal.

11. Constable.

THIRD SCHEDULE (s.12,13)

PROCEDURE FOR FIRST APPOINTMENT OF THE INSPECTOR-GENERAL AND DEPUTY INSPECTOR-GENERAL

1. The President shall, within fourteen days after the commencement of this Act, constitute a selection panel comprising one person from each of the following bodies respectively —

(a) the Office of the President;

(b) the Office of the Prime Minister;

(c) the Judicial Service Commission;

(d) the Commission for the time being responsible for matters relating anti-corruption;

(e) the Kenya National Commission on Human Rights;

(f) the Commission for the time being responsible for matters relating to gender; and

(g) the Association of Professional Societies in East Africa.

2. The Public Service Commission shall —

(a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among their number, and

(b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

3. The selection panel shall, within seven days of its convening, under paragraph 2, by advertisement in at least two daily newspapers of national circulation, invite applications from persons who qualify for nomination and appointment for the position of the Inspector-General and Deputy Inspectors-General under Article 245(2) of the Constitution and this Act.

4. The selection panel shall —

(a) consider the applications received under paragraph (3) to determine their compliance with the provisions of the Constitution and this Act;

(b) shortlist the applicants;

(c) publish the names of the shortlisted applicants and the qualified applicants in at least two daily newspapers of national circulation; and

(d) conduct public interviews of the shortlisted persons;

(e) shortlist three qualified applicants for each position; and

(f) forward the names of the qualified persons under paragraph (e) to the President.

5. The President shall, if he approves, within fourteen days of receipt of the names of successful applicants forwarded under paragraph (4) (f), nominate the Inspector-General and Deputy Inspectors-General and forward the names of the persons so nominated to the National Assembly for approval.

6. The National Assembly shall, within twenty-one days of the day it next sits after receipt of the names of the applicants under paragraph 5, vet and consider all the nominees, and may approve or reject any or all of them.

7. Where the National Assembly approves of the nominees, the Speaker of the National Assembly shall forward the names of the approved nominees to the President for appointment.

8. The President shall, within seven days of receipt of the approved nominees from the National Assembly, by notice in the Gazette, appoint the Inspector-General and Deputy Inspectors-General so approved by the National Assembly;

9. Where the National Assembly rejects any nomination, the Speaker shall within three days communicate its decision to the President and request the President to submit fresh nominations.

10. Where a nominee is rejected by the National Assembly under paragraph 9, the President shall within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and whose names are forwarded by the selection panel under paragraph 5;

11. If the National Assembly rejects any or all of the subsequent nominees submitted by the President for approval under

paragraph 10, the provisions of subsections (1) to (6) shall apply.

12. In shortlisting, nominating or appointing persons as Inspector-General and Deputy Inspectors-General, the selection panel, the National Assembly and the President shall ensure that not more than two-thirds of the members are of the same gender.

13. The selection panel may, subject to this section, determine its own procedure.

14. After the first general elections under the Constitution, the member of the selection panel under subsection (1) (b) shall be replaced by a representative of the Public Service Commission.

15. The selection panel shall stand dissolved upon the appointment of the Inspector-General and Deputy Inspectors General under paragraph 9.

16. Where the provisions of paragraph 11 apply, the selection panel shall continue to exist but shall stand dissolved upon the requisite appointments being made under paragraph 12.

FOURTH SCHEDULE (s. 19)

OATH/AFFIRMATION OF OFFICE

I,..... do swear/do solemnly and sincerely affirm that I will be faithful and bear true allegiance to the Constitution and the President of Kenya during my service in the *Kenya Police/Administration Police/ Police Reserve/Directorate of Criminal Investigation*..... without favour or affection, malice or ill will; that I will at all times do my utmost to reserve the peace and to prevent offences against the peace; that while I shall continue to hold the said office, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law and will not; I will subject myself to the Constitution, all Acts, orders and regulations now or in future in service relating to my service in the Kenya Police Service/Kenya Administration Police/Reserve; and that I will discharge all the duties of a police officer according to law, without fear, favour, affection or ill-will. (SO HELP ME GOD).

OATH/AFFIRMATION OF SECRECY

I.....
(full names) DO HEREBY SWEAR BY THE ALMIGHTY

GOD/SOLEMNLY AND SINCERELY AFFIRM THAT I will not, without due authority, disclose or make known to any person any information acquired by me by reason of the duties performed by me on behalf or under the direction of the National Police Service or by reason of any office or employment held by me pursuant to the National Police Service Act. SO HELP ME GOD.

FIFTH SCHEDULE (s. 59(2))

ARREST AND DETENTION RULES

- 1.** In the performance of the functions and exercise of the powers of arrest and detention set out in the Constitution and this Act or any other law, a police officer shall carry out an arrest and detention only as provided for in law.
- 2.** A police officer shall accord an arrested or detained person all the rights set out under Articles 49, 50 and 51 of the Constitution.
- 3.** Force shall only be used in accordance with the Sixth Schedule.
- 4.** Every police station shall have a lock-up facility for detaining arrested persons.
- 5.** A lock-up facility shall have –
 - (a) hygienic conditions conducive for human habitation;
 - (b) adequate light, toilet and washing facilities and outdoor area;
 - (c) men and women will be kept separately;
 - (d) juveniles and children will be kept separately from adults; and
 - (e) police detainees will be kept separately from convicted prisoners.
- 6.** A police officer shall only carry a firearm into a lock-up in accordance with the law.
- 7.** A detained person shall be entitled to enjoy all the rights that do not relate to the restriction of liberty.

8. A police officer in charge of a police station or other place of detention shall—

(a) maintain a register into which the following particulars in respect of detained persons shall be entered—

(i) name;

(ii) reasons for the arrest and detention;

(iii) date and time of the arrest and detention;

(iv) date and time of first appearance before a court;

(v) identity of the arresting officer;

(vi) date and time for interrogations and identity of interrogators;

(vii) date and time of any transfer of the detainee to another place of detention.

(b) appoint an officer who shall be responsible for the detainees' welfare and for updating the register.

9. A detained person shall have the right to—

(a) communicate with and receive visits of members of the family subject only to reasonable conditions and restrictions (when exceptional needs of the investigation so require) which shall be spelt out in the Standing Orders subject to the approval from the Ministry;

(b) inform family members of the arrest and detention and place of detention;

(c) access to doctors and general medical assistance when required; and

(d) lodge complaints against ill-treatment and the right to compensation, which shall be investigated by the Independent Policing Oversight Authority, but in any event never by officers from the respective police station.

10. No detained person shall be held in any other place except a designated lock-up facility.

11. A lock-up facility shall be open for inspection, including unannounced visits by both the Independent Police Oversight Authority and the Cabinet Secretary or their representatives.

12 (1) In the case of unannounced visits contemplated in paragraph 11-

(a) officers responsible for the facility shall cooperate fully with the persons making the visit

(b) recommendations may be made for improvement, which shall be binding upon the Police;

(c) the detained person shall be entitled to communicate freely and confidentially with persons making the visit.

(2) Any officer referred to in subparagraph (1) who fails to comply with the requirements set out therein commits an offence.

13. Whenever a detained person dies in custody, the officer in charge shall notify the Independent Police Oversight Authority and any other body required by law to be so notified for purposes of investigations.

14. A police officer who contravenes the provisions of this Schedule shall be personally guilty of a disciplinary offence and may be tried for a criminal offence.

SIXTH SCHEDULE (s. 61(2))

A - CONDITIONS AS TO THE USE OF FORCE

1. A police officer shall always attempt to use non-violent means first and force may only be employed when non-violent means are ineffective or without any promise of achieving the intended result.

2. The force used shall be proportional to the objective to be achieved, the seriousness of the offence, and the resistance of the person against whom it is used, and only to the extent necessary while adhering to the provisions of the law and the Standing Orders.

3. When the use of force results in injuries –

(a) the police officers present shall provide medical assistance immediately and unless there are good reasons, failing to do so shall be a criminal offence; and

(b) shall notify relatives or close friends of the injured or affected persons.

4. A police officer who uses any form of force shall immediately, report to the officers' superior explaining the circumstances that necessitated the use of force and the supervisor shall judge the rightfulness and decide on the next step, subject to these regulations.

5. Any use of force that leads to death, serious injury and other grave consequences shall be reported immediately by the officer in charge or another direct superior of the person who caused the death or injury, to the Independent Police Oversight Authority who shall investigate the case.

6. The Inspector-General shall not be precluded by virtue of paragraph (5) from conducting investigations into the matter.

7. A police officer who makes a report to the Independent Police Oversight Authority in accordance with paragraph (5) shall—

(a) secure the scene of the act for purposes of investigations; and

(b) notify the next of kin, their relative or friend of the death or injury as soon as reasonably practical.

8. It shall be a disciplinary offence for a police officer to fail to report in accordance with these regulations.

9. An officer shall not tamper or otherwise damage any evidence from the scene of the act.

10. A Police officer in uniform shall at all time affix a nametag or identifiable Service number in a clearly visible part of the uniform

11. Following the orders of a superior is no excuse for unlawful use of force.

12. The Cabinet Secretary responsible for Internal Security and the Inspector-General shall make regulations for giving further direction on the lawful use of force, and the regulations shall include, among other things -

(a) a list of lawful means to use force;

(b) training requirements to be allowed to use these means;

(c) procedures for reporting the use of the means of force, indicating whether the use of such means was necessary or not.

B-CONDITIONS AS TO THE USE OF FIREARMS

1. Firearms may only be used when less extreme means are inadequate and for the following purposes –

(a) saving or protecting the life of the officer or other person; and

(b) in self-defence or in defence of other person against imminent threat of life or serious injury.

2. An officer intending to use firearms shall identify themselves and give clear warning of their intention to use firearms, with sufficient time for the warning to be observed, except—

(a) where doing so would place the officer or other person at risk of death or serious harm; or

(b) if it would be clearly inappropriate or pointless in the circumstances.

3. A police officer shall make every effort to avoid the use of firearms, especially against children.

4. Any use of firearm, even if there's no injury, shall immediately be reported to the officer's superior.

5. Any use of fire arms that leads to death, serious injury and other grave consequences shall be reported by the officer in charge or another direct superior of the person who caused the death or injury, to the Independent Police Oversight Authority who shall investigate the case.

6. The Inspector-General is not precluded by virtue of paragraph (4) from conducting investigations into the matter.

7. A police officer who makes a report to the Independent Police Oversight Authority in accordance with paragraph (4) shall—

(a) secure the scene of the act for purposes of investigations; and

(b) notify the next of kin, their relative or friend of the death or injury as soon as reasonably practical.

8. The Cabinet Secretary in consultation with the Inspector-General shall make further regulations on the use of firearms which shall include regulations:

(a) that specify the circumstances under which police may carry firearms and the type of firearms and ammunition permitted;

(b) that prohibit firearms and ammunition that cause unwarranted injury or present unwarranted risk;

(c) to regulate the control, storage and issuing of firearms, including procedures that ensure that officers are accountable for the weapons and ammunition issued to them (in principle; don't allow to take fire arms home and officers are provided by their superior with a fixed amount of ammunition and have to explain at any time when requested if bullets are missing);

(d) for the selection, training and testing of officers authorised to carry firearms including techniques that could diffuse tension and reduce the likelihood of the need to use force in order to ensure that firearms are used appropriately and with **the** least risk of causing unnecessary harm;

(e) to provide for testing of officers carrying fire arms at regular intervals, but at least once a year;

(f) and provide for consequences when failing the test referred to under paragraph (e) which shall at least include that failing to pass the test shall result in losing the right to carry fire arms until the officer does pass the test; and

(g) provide for a reporting system whenever officials use firearms in the performance of their duty.

C - SPECIFIC RESPONSIBILITIES OF SUPERIORS

1. Superior officers should do everything in their power to prevent unlawful use of force or firearms, and when such unlawful use of fire arms does occur, they should report this immediately to the Independent Police Oversight Authority and to the Inspector-General.

2.(1)Refusing to carry out orders that include unlawful use of force should not be penalized and should not be a disciplinary offence.

(2)Giving an order that would lead to the unlawful use of force is a disciplinary offence and may amount to a criminal offence.

(3) The station commander, or any other relevant direct superior, shall, immediately after the death or serious injury of a person who at the time of his death or injury, was in police custody or under the control of the Police or in any way the death or serious injury was the result of police action or inaction which includes anyone who may have been injured or killed being a bystander during a police operation,

(a) take all steps to secure evidence which may be relevant to that death;

(b) immediately report the case to the Independent Police Oversight Authority, using the means of communication that guarantee there will be the least delay, and confirm this in writing no later than within 24 hours after the incident;

(c) supply the Independent Police Oversight Authority with evidence of and all other facts relevant to the matter, including, if available, the names and contact details of all persons who may be able to assist the Independent Police Oversight Authority should it decide to conduct an investigation; and

(d) non-compliance with the above shall be an offence.

D-PREVENTING ESCAPE

1. A police officer may use instruments of restraint to prevent the escape of a detainee or prisoner –

(a) to prevent the escape of a detainee; and

(b) to prevent the detainee from self-injury or injuring others or damaging property.

2. An instrument of restraint may—

(a) not be applied for longer than necessary to secure the purpose for which it is used;

(b) not be used as a punishment; and

(c) shall be removed immediately after the purpose for which it is

SIXTH SCHEDULE (s. 61(2))

A - CONDITIONS AS TO THE USE OF FORCE

1. A police officer shall always attempt to use non-violent means first and force may only be employed when non-violent means are ineffective or without any promise of achieving the intended result.

2. The force used shall be proportional to the objective to be achieved, the seriousness of the offence, and the resistance of the person against whom it is used, and only to the extent necessary while adhering to the provisions of the law and the Standing Orders.

3. When the use of force results in injuries –

(a) the police officers present shall provide medical assistance immediately and unless there are good reasons, failing to do so shall be a criminal offence; and

(b) shall notify relatives or close friends of the injured or affected persons.

4. A police officer who uses any form of force shall immediately report to the officers' superior explaining the circumstances that necessitated the use of force and the supervisor shall judge the rightfulness and decide on the next step, subject to these regulations.

5. Any use of force that leads to death, serious injury and other grave consequences shall be reported immediately by the officer in charge or another direct superior of the person who caused the death or injury, to the Independent Police Oversight Authority who shall investigate the case.

6. The Inspector-General shall not be precluded by virtue of paragraph (5) from conducting investigations into the matter.

7. A police officer who makes a report to the Independent Police Oversight Authority in accordance with paragraph (5) shall—

EIGHTH SCHEDULE (s. 88(2))

OFFENCES AGAINST DISCIPLINE

1. It shall be an offence against discipline for any police officer to—

(a) unlawfully strike, or use or threaten violence against any police officer or any other person;

- (b) use any obscene, abusive or insulting language in any form to any police officer;
- (c) uses threatening or insubordinate or disrespectful language, word, act or demeanour to a police officer senior to him in rank;
- (d) cause a disturbance in any police premises;
- (e) be guilty of drunkenness while on duty;
- (f) drink intoxicating liquor or psychotropic substances or drugs, or smoke in uniform when actively engaged on duty in a public place ;
- (g) willfully disobey any lawful command or order;
- (h) absent himself without leave;
- (i) be found sleeping while on duty;
- (j) leave his post or place of duty before he/she is regularly relieved, except in fresh pursuit of an offender who it is his/her duty to apprehend;
- (k) while under arrest or in detention, leave or escape from such arrest or detention before he/she is set at liberty by proper authority;
- (l) neglect or refuse to assist in the apprehension of any police officer charged with any offence, when lawfully ordered so to do;
- (m) resist any lawful arrest;
- (n) negligently allow any prisoner, who is committed to his charge, or whom it is his/her duty to guard, to escape;
- (o) discharge any weapon without orders or without reasonable lawful cause;
- (p) without reasonable cause, fail to attend at any parade, instruction class or court or any other duty which he is required to attend;
- (q) sell, pawn, lose by neglect, make away with or willfully or negligently damage, or fail to report any loss or damage to, any arm, ammunition, accoutrement, uniform or other article of personal issue or any vehicle or other property committed to his charge belonging to the Government or for which the Government is responsible; or

-
- (r) be in improper possession of any public or private property;
or
 - (s) commit any act of plunder or wanton destruction of any property;
 - (t) be negligent in the performance of his duty;
 - (u) appear on duty untidy or dirty in his/her person, arms, clothing or equipment;
 - (v) make or sign any false statement in any document or official record;
 - (w) without proper authority, disclose or conveys any information concerning any investigation or other police matter ;
 - (x) malingering, or feign any disease or infirmity;
 - (y) knowingly and willingly transmit any venereal disease or HIV/AIDS;
 - (z) without proper authority demands or exacts from any person any carriage, portorage or provisions;
 - (aa) commit an act which amounts to corruption by under of any law in force in Kenya;
 - (bb) make any false statements upon joining the Service; or
 - (cc) refuse or neglect to make or send any report or return which it is his duty to make or send; or
 - (dd) knowingly make any false accusation or complaint or statement against any police officer or other person, affecting the character of such person, or willfully suppress any material fact.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose of this Bill is to consolidate and amend the law relating to the Police Service, to provide for the functions, organization and discipline of the Service, the powers and responsibilities of police officers, the efficient and transparent management of the Service and for the principles of equity and meritocracy.

The Bill seeks to give effect to the constitutional provisions relating to the National Police Service and the recommendations of the National Task Force on Police Reforms appointed in 2009. In particular, the Bill provides for—

- (a) a unified National Police Service comprised of the Kenya Police Service and the Administration Police Service in accordance with Article 243 of the Constitution, and the Directorate of Criminal Investigations;
- (b) a unified command under the Inspector-General of the National Police Service who will be deputized by the two Deputy Inspectors-General who shall be the heads of the two Police Services respectively.
- (c) the co-ordination of functions between the two Services and the execution by both of common functions and also of functions specific to each service;
- (d) the involvement of the citizen in the activities of the Police Service by providing for the setting up of the country policing authorities and community policing;
- (e) the repeal both the Police Act (Cap.84) and the Administration Police Act (Cap. 85).

The Bill also seeks to provide for not only police welfare but also for their accountability and professionalism.

Part I of the Bill provides for preliminary matters, interpretation of terms and phrases and the purpose of the Bill.

Part II of the Bill provides for the composition of the Kenya Police Service.

It prescribes the qualifications, procedures for the appointment and removal, powers and functions of the Inspector-General and the Deputy Inspectors-General.

Part III provides for the composition of the Kenya Police Service and accords both the Service and the Deputy Inspector-General incharge specific functions. Among the functions of the Deputy Inspector-General are administration, policy guidance, budgeting, co-ordination and engagement in joint security operations with the other Service. The Kenya Police are mandated among other things; to maintain law and order, preserve peace, protect life and property, investigate crimes, apprehend offenders and generally enforce the law. This Part

also gives the Kenya Police certain necessary powers to enable them accomplish their mandate.

Part IV of the Bill provides for the composition of the Administration Police Service and accords both the Service and the Deputy Inspector-General in charge specific functions. Among the functions of the Deputy-Inspector-General are administration, policy guidance, budgeting, co-ordination and engagement in joint security operations with the other Service. The Administration Police are mandated, among other things, to support administrative authorities, border patrol, maintain one of law and order, preserve and maintain public peace and safety and provide security of Government property, vital installations and strategic points.

Part V of the Bill provides for the establishment, composition, powers and functions of the Directorate of Criminal Investigation. It provides for the qualifications of the Director and also the procedure for appointment and removal; it also sets out the functions of the Directorate, the prime function being the investigation of serious crimes, including homicide and organized crime.

The Bill also proposes for specific funding of the Directorate by the Treasury.

Part VI of the Bill provides for the setting up of the County policing authorities by the Inspector – General. The membership of the Authority in each County is specified, with the Governor or his designated appointee being the chairperson. Emphasis is laid on the members of the public.

The main function of the Authority is to involve the County residents in the security activities within their country, in order to ensure policing accountability to the public.

Part VIII of the Bill provides for the general powers and duties of, police officers in the Service and also for their rights and obligations.

This Part provides that a police officer shall be entitled to the rights set out in the Constitution which shall only be limited for the maintenance and preservation of National Security, the integrity of the Service, and the rights and freedoms of others.

The Part also provides for the general powers of the police officers in the performance of their functions and duties. Under this Part police officers are prohibited from taking up other employment or engaging in any trade or business where this would interfere with their work as police officers.

Part VIII of the Bill provides details on the recruitment and enlistment of police officers and also for their training while in Service. It also provides for their retirement. It also provides that a police officer who is due to retire may be retained in service if a state of war or emergency arises.

Part IX of the Bill provides that police officers may form service associations for purposes of bringing to the notice of the Inspector-General and the Cabinet Secretary all matters affecting the general welfare and efficiency of the Police, and negotiating and consulting on behalf of the officers. This Part also prohibits police officers from forming trade unions or associations affiliated to trade unions.

Part X of the Bill deals with discipline and disciplinary action against.

Part XI of the Bill provides for community policing. The provision institutionalizes the concept of community policing by requiring the police officers in charge of specified stations to establish forums and committees for purposes of community policing. It provides for the establishment of county policing committees which shall work with the County Policing Authority for the promotion of security in the County.

Part XII provides for offences and penalties.

Part XII makes provisions for the use of police officers on application by private persons, and the deployment of additional officers on private property by the Inspector – General when necessary.

Part XIV of the Bill provides for reciprocal arrangements on the use of police officers with reciprocating countries.

This part provides for the making of reciprocal agreements with other countries, whereby the President may on application by the Government of such a country order police officers to proceed thereto for service to assist the police of that country in cases of temporary emergency. The same arrangement may be reciprocated on application by the President.

Part XV of the Bill provides for the establishment of the National Police Reserve and the appointment of officers to it; it also has provisions on the discipline and remuneration of Reserve Officers.

Part XVI of the Bill contains the financial provisions with respect to the Service.

Part XVII of the Bill contains Miscellaneous provisions. These include the declaration of a police station to be a lock-up, and the making of regulations by the Inspector-General. It also specifies the role of the Cabinet Secretary as far as the Service is concerned. It provides that the National Security Council established under the Constitution shall exercise general supervisory control over the Service with respect to the national and foreign policies, and the assessment of the national security capabilities.

Part XVIII of the Bill has the repeals of the Police Act and the Administration Police Act with savings of standing orders from both entities. It also enjoins the Inspector – General to put in place a system of continuous Police reforms with the Service. The enactment of this Bill shall occasion additional expenditure of public funds, which shall be provided for through the estimates.

Dated the 12th August, 2011.

GEORGE SAITOTI,
Minister of State for Provincial
Administration and Internal Security.