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POLICE (DISCIPLINE) ACT

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Police (Discipline)

CHAPTER 17:01

POLICE (DISCIPLINE) ACT

16 of 1975
[O. 80/1980]

An Act to enable members of the Police Force to appeal to the Police Service Commission in disciplinary matters pursuant to article 212(5) of the Constitution and to make provision for the exercise of disciplinary powers in the Police Force.

[14TH MAY, 1975]

PART 1

PRELIMINARY

Short title.

1. This Act may be cited as the Police (Discipline) Act.

Interpretation.
[O. 80/1980]

2. In this Act—

“assistant commissioner”, “branch”, “division”, “inspector”, “officer”, and “station” have the respective meanings assigned to them by section 2 of the Police Act;

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“Commission” means the Police Service Commission established by article 137 of the Constitution;

“Commissioner” means the Commissioner of Police;

“disciplinary authority” means the disciplinary authority within the meaning of article 212(5) of the Constitution;

“the Force” means the Police Force;

“the Police Force” has the meaning assigned to it by article 232(1) of the Constitution.

PART II

APPEALS TO THE POLICE SERVICE COMMISSION

3. (1) Where the power to exercise disciplinary control over persons holding offices in the Police Force (including the power to remove such persons from office) has been exercised under article 212 of the Constitution by the disciplinary authority, any such person in respect of whom that power has been exercised may appeal from the decision of the disciplinary authority to the Commission except that—

Appeals in disciplinary matters.
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(a) no appeal shall lie to the Commission, by virtue of this Act, where the disciplinary authority consists of a majority of the members of the Commission;

(b) an appeal from a decision of the disciplinary authority being a member of the Police Force, other than the Commissioner, shall lie in the first instance to the Commissioner, or to a member of the Police Force of higher rank than the disciplinary authority if so required by the Commissioner under article 212(5) of the Constitution.

(2) Any member of the Police Force in respect of whom the power to exercise disciplinary control has been exercised under article 212 of the Constitution by the disciplinary authority may appeal against the decision of the disciplinary authority within fourteen days after the date on which the decision is duly communicated to him by lodging the appeal, together with the grounds thereof—

(a) with the Secretary of the Commission, where the appeal is against the decision of the disciplinary authority consisting of less than a majority of the Commission or of the Commissioner;

(b) with the Commissioner, where the appeal is against the decision of the disciplinary authority, being a member of the Police Force other than the Commissioner, or with a member of the Police Force of higher rank than the disciplinary authority if so required by the Commissioner under article 212(5) of the Constitution.

(3) Notwithstanding that the time prescribed by subsection (2) for lodging an appeal has expired, on the application of a member of the Police Force in respect of whom the power to exercise disciplinary control has been exercised under article 212 of the Constitution by the disciplinary authority, the Commission or the Commissioner, as the case may be, if satisfied that in all the circumstances it would be just and proper to do so, may grant to such a member of the Police Force desirous of appealing against a decision of the disciplinary authority an extension of time to lodge an appeal on any terms and conditions the Commission or the Commissioner, as the case may be, may think fit to impose.

(4) On any appeal under the foregoing provisions of this section, or on the granting of an application under subsection (3) and on the applicant complying with any terms and conditions imposed by the Commission or the Commissioner, as the case may be, the execution of the decision under appeal shall be suspended until the appeal is finally determined or is abandoned after the granting of the application.

(5) The Commission or the Commissioner, as the case may be, when considering an appeal may require the parties concerned to submit for the consideration of the Commission or the Commissioner, as the case may be, such other information relating to the matter which is the subject of the appeal as the Commission or the Commissioner may think fit.

(6) On any such appeal the Commission or the Commissioner, as the case may be, may—

- (a) affirm or quash the decision under appeal; or
- (b) substitute a punishment in lieu of any punishment imposed.

(7) A member of the Force who has been found guilty of an offence against discipline shall, for the purpose of prosecuting his appeal against the decision, be entitled on application being made

therefor to the Commissioner and on payment of such fee as may be prescribed therefor to be furnished with a copy of the proceedings of the inquiry.

PART III

DISCIPLINE

Offences
against
discipline.

4. Any member of the Force (other than the Commissioner) who—

- (a) is insubordinate by word, act or demeanour;
- (b) conducts himself in an oppressive or tyrannical manner towards an inferior in rank;
- (c) disobeys lawful orders given him by his superior in rank, whether orally or in writing, or by authorised signals on parade;
- (d) conducts himself in a discreditable manner, that is to say—

- (i) uses obscene, abusive or insulting language to any other member of the Force;
- (ii) wilfully or negligently makes any false complaint or statement against any member of the Force, or against any officer;
- (iii) assaults any other member of the Force;
- (iv) improperly withholds any report or allegation against any member of the Force;
- (v) forces a sentry;
- (vi) acts in a disorderly manner; or
- (vii) acts in any manner likely to bring discredit on the reputation of the Force;

(e) neglects his duty, that is to say—

- (i) neglects or without good and sufficient cause, omits to carry out promptly and diligently anything which is his duty as a member of the Force;

(ii) when on duty fails to perform his duties with diligence;

(iii) fails to work his beat in accordance with orders, or leaves his beat or patrol, point or other place of duty to which he has been ordered without due permission or sufficient cause;

(iv) by carelessness or neglect, permits a prisoner to escape;

(v) fails, when knowing where any offender is to be found, to report the same, or to make due exertion for making him amenable to justice;

(vi) fails to report any matter which it is his duty to report;

(vii) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he can give for or against any prisoner or defendant on a criminal charge, or the name of any person whom he believes can give such evidence;

(viii) omits to make any necessary entry in any official document, paper or book;

(ix) neglects, or without good and sufficient cause, omits to carry out any instruction given to him in connection with his health by any medical practitioner in the public service;

(x) fails to attend to any reasonable request made to him by any member of the public;

(xi) is wanting in civility to any member of the public; or

(xii) neglects to assist any person injured or taken ill in any public place;

(f) conducts himself in an improper manner, that is to say—

(i) makes any anonymous communication to the Commissioner or to any superior officer;

(ii) canvasses any member of the National Assembly with regard to any matter concerning the Force;

(iii) signs or circulates any petition or statement with regard to any matter concerning the Force except through the proper channel of correspondence to the Commissioner, or in accordance with the constitution of the Police Association; or

(iv) summons or attends any unauthorised meeting to discuss any matter concerning the Force;

(g) knowingly makes or signs any false statement in any official document or book;

(h) without good and sufficient cause, destroys or mutilates any official document or record, or alters or erases any entry therein;

(i) prevaricates before any court or at any inquiry;

(j) commits any breach of confidence, that is to say—

(i) divulges any matter which it is his duty to keep secret;

(ii) gives notice, directly or indirectly to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons;

(iii) communicates to the publisher or editor of any newspaper or to any unauthorised person any matter connected with the Force without the permission of the Commissioner; or

(iv) without proper authority shows to any person outside the Force any book, or written or printed document, which is the property of the Force;

(k) is guilty of any corrupt practice, that is to say—

(i) receives any bribe;

(ii) fails to account for, or to make a prompt and true return of, any money or property received by him in his official capacity;

(iii) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial without the consent of the Commissioner;

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(iv) places himself under any pecuniary obligation to any person licensed to sell intoxicating liquor, or to any person who holds a licence concerning the granting or renewal of which the Police may have to report or to give evidence; or

(v) in his capacity as a member of the Force writes, signs, or gives, without the sanction of the Commissioner, any testimonial of character, or other recommendation, with the object of obtaining employment in the Force for any person or supporting an application for the grant of a licence of any kind;

(l) is guilty of any unlawful or unnecessary exercise of authority, that is to say—

(i) without good and sufficient cause makes any unlawful or unnecessary arrest; or

(ii) uses any unnecessary violence to any prisoner, or other person with whom he may be brought into contact in the execution of his duty;

(m) malingers, or feigns any sickness or injury, or reports sick without due cause or knowingly conceals from his superior in rank any contagious disease from which he is suffering or neglects or fails to report the fact to his superior in rank;

(n) is absent without leave, or without reasonable cause is absent from, or is late for, parade, Court, or any other duty;

(o) while on or off duty in uniform in a public place is improperly dressed, or is dirty or untidy in his person, uniform or accoutrements;

(p) pawns, sells, loses by neglect, wilfully or carelessly damages, or fails to report any damage to any uniform, arms, accoutrements, books, documents, or other property of the Force, served out to him, or used by him, or entrusted to his care;

(q) while on or off duty is unfit for duty as a result of being under the influence of intoxicating liquor, or drinks or solicits intoxicating liquor while on duty, that is to say—

(i) without the consent of his superior officer, drinks or receives from any person any intoxicating liquor while on duty; or

(ii) demands or endeavours to persuade any person to give him, or to purchase or obtain for him any intoxicating liquor while on duty;

(r) improperly enters licensed premises, that is to say—

(i) enters, while on duty, any premises licensed for the manufacture, storage, distribution or sale of intoxicating liquor, when his presence there in the execution of his duty is not required; or

(ii) enters such premises dressed in uniform when not on duty when his presence there in the execution of his duty is not required;

(s) lends money to, or borrows money from, any member of the Force, or without the approval of the Commissioner, accepts any present from any inferior in rank;

(t) incurs debt without any reasonable prospect or intention of paying the same, or having incurred any debt, makes no reasonable effort to pay the same;

(u) gambles, or permits, or fails to report gambling in any police station, barracks, or other building or premises used in connection with the Force;

(v) removes his duty badge when on duty or endeavours at any time to conceal or disguise his number;

(w) smokes when on duty;

(x) knowingly is an accessory to an offence against discipline or connives at such offence;

(y) fails to comply with or disobeys any regulation relating to the Force or order issued by the Commissioner; or

(z) is guilty of any other act, conduct or neglect, to the prejudice of good order or discipline, including the breach of any regulations made under this Act or the Police Act, or of any standing orders made by the Commissioner,

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Schedule. commits an offence against discipline, and is liable to such punishment as may be imposed upon him, by the Commission, the Commissioner or the disciplinary authority in accordance with the provisions of the Schedule except that no punishment provided in subparagraph (d), (e), (f) or (g) or paragraph 1 of the Schedule shall be imposed on a special constable who has not been called out for full-time service.

Investigation
of offences
against
discipline.

5. (1) Every alleged commission of an offence against discipline under this Act shall be investigated as soon as practicable by a member of the Force not below the rank of sergeant and of higher rank than the member of the Force who is alleged to have committed the offence.

(2) The member of the Force investigating an offence against discipline (hereinafter referred to as “the investigating officer”) shall be a member of the Force of the same station or branch who is directly responsible for the supervision of the member of the Force who is alleged to have committed the offence, unless the officer in charge of the division, or the said station or branch, otherwise directs.

(3) The investigating officer shall, as soon as practicable, inform the member of the Force alleged to have committed an offence against discipline in writing in a language he understands of the offence which he is alleged to have committed, and the particulars of the facts constituting the offence, and of his right to refuse to make any written or oral statement to the investigating officer, unless he otherwise desires.

(4) The investigating officer shall submit a report with his recommendations to the member of the Force in charge of the station or branch who shall decide whether any charge shall be instituted.

(5) Particulars of all charges shall be entered by the investigating officer in a register in such form as may be prescribed by the Commissioner in standing orders.

(6) The member of the Force in charge of the station, or branch shall cause the particulars of the offence to be entered on a charge sheet in such form as may be prescribed by the Commissioner in standing orders; two or more charges against one member of the Force may be

entered on the same charge sheet but not more than one member shall be named on the same charge sheet unless such member and another member are together concerned in the commission of the same offence.

(7) An officer in charge of a division may require any other officer in his division to inquire into any charge.

(8) An Assistant Commissioner may require any officer below the rank of Assistant Commissioner to inquire into any charge.

(9) The Commissioner may require any officer to inquire into any charge either alone or with one or more officers, and may himself inquire into any charge.

(10) The officer conducting an inquiry (and when more than one officer is required to inquire into a charge, the senior officer) shall cause a copy of the charge sheet to be served on the member of the Force charged with having committed an offence against discipline (hereinafter referred to as "the defaulter") together with copies of any documents which it is proposed to use as evidence at the hearing.

(11) Except with the consent of the defaulter, no inquiry shall commence earlier than forty-eight hours after service of the charge sheet and copies of any documents mentioned in subsection (10).

6. (1) The defaulter shall be permitted, if he so desires, to select another member of the Force from within the division, station or branch in which he is serving (hereinafter referred to as a "friend of the defaulter") to assist him in presenting his defence except that—

Procedure at
inquiry.
[O. 80/1980]

- (a) if the defaulter is of or above the rank of sergeant, the friend of the defaulter shall be of the same rank as himself;
- (b) if the defaulter is below the rank of sergeant, the friend of the defaulter shall be of or above the rank of the defaulter but not above the rank of sergeant.

(2) The officer conducting the inquiry shall have power—

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- (a) to summon witnesses and examine them on oath;
- (b) to administer such oath;
- (c) to call for the production of any book or document,

and any person who fails to comply with any requirement made under this subsection by the officer conducting the inquiry is liable on summary conviction to a fine of two thousand seven hundred and fifty dollars except that if any witness objects to answer any question or to produce any document on the ground that the answer or production will tend to incriminate him or subject him to any penalty, he shall not be required to answer the question or produce the document.

(3) The person presenting the charge against the defaulter at the inquiry (hereinafter referred to as the “presenting officer”) and the defaulter may call witnesses on their behalf.

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(4) Any witness who shall wilfully give false evidence at any inquiry into any charge for an offence against discipline, is guilty of perjury under section 327 of the Criminal Law (Offences) Act and is liable to be prosecuted and punished accordingly.

(5) At every inquiry, the presenting officer shall be a member of the Force not below the rank of sergeant and of a higher rank than the defaulter and the investigating officer may act as the presenting officer.

(6) The officer conducting the inquiry shall read the charge to the defaulter who shall then make his plea, (whether guilty or not guilty) which shall be recorded on the charge sheet by the officer conducting the inquiry.

(7) After the defaulter has made his plea, the presenting officer shall state the facts of the case briefly, and the defaulter or the friend of the defaulter, as the case may be, may make a statement in reply.

(8) If the defaulter wilfully refuses to plead or will not answer directly, the officer conducting the inquiry shall enter a plea of not guilty, and the plea so entered shall have the same force and effect as if the defaulter had actually so pleaded.

(9) Where the defaulter has pleaded guilty to the charge, the officer conducting the inquiry if he is not the disciplinary authority shall submit the record of the proceedings to the Commission or the disciplinary authority, as the case may be, for the purpose of imposing an appropriate punishment in accordance with the provisions of the Schedule.

Schedule.

(10) Where the defaulter pleads not guilty to the charge, the evidence shall be taken down in writing by the officer conducting the inquiry who shall record submissions made on behalf of the defaulter, or by the presenting officer, and particulars of adjournments and other relevant matters.

(11) At any inquiry the presenting officer, and the defaulter or the friend of the defaulter, may examine and cross-examine witnesses, make submissions on the evidence to the officer conducting the inquiry, and in such order as the officer conducting the inquiry may direct, address him on the evidence which has been adduced.

(12) Where the defaulter pleads not guilty to the charge, at the conclusion of the inquiry, the officer conducting the inquiry shall, if he is not the disciplinary authority, submit a copy of the record of the proceedings together with his recommendations to the Commission or the disciplinary authority, as the case may be, as to whether the defaulter is guilty or not guilty of any offence charged.

(13) Where the officer conducting the inquiry is not the disciplinary authority and has recommended that the defaulter be found guilty or not guilty of any offence charged, the Commission or the disciplinary authority, as the case may be, may confirm the recommendation and in any case where the Commission or the disciplinary authority confirms a recommendation of guilty of an offence charged, an appropriate punishment in accordance with the provisions of the Schedule shall be imposed by the Commission or the disciplinary authority, as the case may be.

Schedule.

(14) At the conclusion of any inquiry, the officer conducting the inquiry if he is the disciplinary authority shall impose an appropriate punishment in accordance with the provisions of the Schedule.

Schedule.

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(15) Anything in this section or in section 5 to the contrary notwithstanding, the Commission may, in any case where it thinks fit, direct that a disciplinary offence alleged to have been committed by a member of the Force of or above the rank of Inspector shall be inquired into by such other person or authority as may be determined by the Commission and the procedure to be adopted at such an inquiry shall, subject to subsection (16), be determined by that person or authority.

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(16) Nothing in section 5 or this section shall be construed as affecting the power of the Commission to make rules in pursuance of article 226 of the Constitution for any of the matters for which provision is made by section 5 or this section and if any such provision is inconsistent with any such rule, the rule shall prevail.

Absence
without leave.
[O. 80/1980]

7. In addition to any punishment which may be imposed for absence without leave, pay may be forfeited for the period of absence—

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- (a) if the member of the Force is of or above the rank of Inspector by the Commission, or by the disciplinary authority under article 212(2) of the Constitution;
- (b) if the member of the Force is below the rank of Inspector by the Commissioner, or by the disciplinary authority under article 212(4) of the Constitution,

and in the computation of such period of absence, any part of a day shall count as a whole day.

Interdiction
from duty
pending
inquiry into
offence against
discipline.
[O. 80/1980]

8. Any member of the Force who has been charged with an offence against discipline may, pending the determination of the inquiry into the charge (including the determination of any appeal) be interdicted from duty—

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- (a) if he is of or above the rank of Inspector, by the Commission, or by the disciplinary authority under article 212(2) of the Constitution if the power is delegated to the disciplinary authority;
- (b) if he is below the rank of Inspector, by the Commissioner, or the disciplinary authority under article

212(4) of the Constitution if the power is delegated to the disciplinary authority,

and paid at such rate of pay, being not less than half-pay as the Commission, the Commissioner or the disciplinary authority, as the case may be, deem fit except that if the charge is dismissed or any appeal against a finding of guilt is allowed the whole of the pay withheld under this section shall be paid to the member of the Force.

9. (1) Particulars of all punishments, other than extraordinary drills or fatigues or an admonition or a reprimand, shall be entered on the defaulter sheet of the member of the Force concerned.

Defaulter sheets.

(2) Any one or more entries on the defaulter sheet of a member of the Force may—

(a) if that member of the Force is of or above the rank of Inspector, be expunged from his defaulter sheet at the discretion of the Commission in recognition of a subsequent act of good service performed by him, or if no disciplinary offence is committed by him within three years after the date of the last entry on his defaulter sheet;

(b) if that member of the Force is below the rank of Inspector, be expunged from his defaulter sheet at the discretion of the Commissioner in recognition of a subsequent act of good service performed by him, or if no disciplinary offence is committed by him as mentioned in paragraph (a).

10. (1) Any member of the Force may be placed under arrest—

Arrest of members of the Force.

(a) if he is under the influence of intoxicating liquor to such an extent as to be incapable of performing his duty;

(b) if he commits any insubordinate act, or uses any insubordinate or disrespectful language to a person in authority over him;

(c) if he wilfully disobeys the lawful order of his superior;
or

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(d) if he strikes or attempts to strike any member of the Force superior in rank to himself.

(2) When any member of the Force is placed under arrest an immediate report of the fact and of the circumstances of his arrest shall be made by the person effecting the arrest to the Commissioner.

(3) Arrest shall be of two kinds as follows—

(a) open arrest—when any member of the Force is placed under open arrest, he shall be deprived of all privileges and leave until the case is disposed of and he shall attend all parades and do duty as required;

(b) close arrest—in the case of a member of the Force of or above the rank of inspector, he shall be confined to his quarters under guard, and in the case of any other member of the Force below the rank of inspector to some suitable place in the police station premises other than prisoners' cell under guard.

(4) When any member of the Force is placed under close arrest, his identification card, whistle, baton, arms and ammunition shall be given up by him forthwith in such manner as the member of the Force or officer who places him under arrest may direct.

(5) No member of the Force shall be placed under arrest under this section by any member of the Force of inferior rank to himself.

(6) Any member of the Force who, while under arrest, is guilty of continued violence or misconduct shall in serious cases be confined as an ordinary prisoner in the lock-up of the station at which he may be at the time.

(7) Any member of the Force who, while under arrest at any time, complains of illness, shall, if in the City of Georgetown, be seen by the Government Medical Officer assigned duties with the Force and if elsewhere by any other Government Medical Officer, who shall be sent for forthwith.

(8) A member of the Force placed under close arrest charged with an offence against discipline shall not, unless the Commissioner otherwise directs, be detained under close arrest for a period longer than twenty-four hours but shall thereafter be released and placed on open arrest or on duty pending his trial.

(9) Where it is not practicable for a direction to be given by the Commissioner within twenty-four hours from the time the member of the Force has been placed under arrest, he shall be released and placed on duty pending his trial, unless in the opinion of his officer in charge such a course would be prejudicial to proper discipline, in which case the Commissioner shall be notified to that effect and the arrest shall be continued until the Commissioner has given his direction except that such arrest shall not continue for a period exceeding eight days.

(10) Where the period of arrest is longer than twenty-four hours a daily report shall, if possible, be made to the Commissioner.

(11) Subject to the provisions of this section, a member of the Force who is placed under close arrest charged with an offence against discipline may, in the discretion of his officer in charge, be placed under open arrest.

11. (1) If any member of the Force disposes of (whether by pawning, selling, destruction or otherwise), negligently loses, or wilfully or negligently damages, any arms, accoutrements, uniform, equipment, or other article issued for the use of the Force, he may, in addition to any punishment, be ordered to make good the whole or part of the amount of such loss or damage by deductions from his salary.

Damage or
loss of
equipment.

(2) If any member of the Force being a driver in charge of a vehicle belonging to the Force or the coxswain in charge of a vessel belonging to the Force, is concerned in any accident causing damage to that vehicle or vessel, or to any article belonging to the Force, and it is found after due inquiry that the accident was caused by the negligence or carelessness of the driver or coxswain, as the case may be, he may, in addition to any punishment, be ordered to make good the whole or part of the amount of such damage by deductions from his salary.

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Recovery of fines from members of the Force.

12. (1) All fines imposed upon any member of the Force under this Act shall be deducted from his salary and shall be paid by the Commissioner to the credit of a fine fund.

(2) The amount of deductions in respect of any fine shall be determined by the authority imposing the fine as a penalty but in no case shall it exceed one-third of the monthly salary of the offender, and whenever more than one deduction is in force against the same person, so much only of his pay shall be deducted as shall leave him a residue of at least one-third of his monthly salary.

(3) When more than one order for deduction is made upon the same person, the order or orders later in date shall not, if necessary, be enforced until the earlier order or orders are discharged.

(4) All moneys which at the coming into force of this Act are standing at the credit of the Police Fine Fund in the Guyana National Co-operative Bank shall form part of the Fine Fund mentioned in subsection (1).

Power to make standing orders and regulations.

13. The Commissioner, with the approval of the Commission, may make—

(a) such standing orders, not inconsistent with this Act, as he considers necessary for the maintenance of discipline in the Force;

(b) regulations for the better carrying out of the provisions of this Act.

SCHEDULE

[O.80/1980]

POWERS OF PUNISHMENT

1. The Police Service Commission.

Power to impose the following punishments on any member of the Force (other than the Commissioner of Police) found guilty of an offence against discipline.

- (a) admonition;
- (b) a reprimand;
- (c) a severe reprimand;
- (d) the award of extra duties and fatigues not exceeding four hours in every twenty-four hours;
- (e) a fine not exceeding at any time ten days' pay;
- (f) confinement to barracks for any period not exceeding twenty-eight days with or without drill;
- (g) reduction in rank;
- (h) dismissal from the Force.

2. The disciplinary authority for the purposes of article 212(2) of the Constitution.

Power to impose such of the punishments specified in paragraph I of this Schedule as may be delegated by the Commission and subject to such conditions as it thinks fit.

3. The Commissioner of Police in exercise of his powers under article 212(3) of the Constitution.

Power to impose the punishments specified in paragraph I of this Schedule.

4. The disciplinary authority for the purposes of article 212(4) of the Constitution.

Power to impose such of the punishments specified in paragraph 1 of this Schedule as may be delegated by the Commissioner and subject to such conditions as he thinks fit.