

INDEPENDENT POLICE COMPLAINTS OF MISCONDUCT
COMMISSION BILL 2019

INDEPENDENT COMMISSION FOR POLICE
MISCONDUCT

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SCHEDULE

A BILL

intituled

An Act to provide for the establishment of the
Complaints of Misconduct Commission –and to provide for its
functions and powers, matters relating to complaints of misconduct,
investigation of misconduct, proceedings to deal with misconduct,
etc., and for related matters pursuant to Article 140(1) of the Federal
Constitution.

[]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Independent Police Complaints of Misconduct Commission Act 2019. / [Independent Commission for Police Misconduct.](#)

(2) This Act comes into operation on a date to be appointed by the Prime Minister by notification in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“member of the police force” means a member of the police force established under Article 132 of the Federal Constitution [and the Inspector General of Police under Article 140 of the Federal Constitution](#);

“member of the commission” means the Chairman, Deputy Chairman and other members of the Commission appointed under section 6;

“public body” includes—

- (a) the Government of Malaysia;
- (b) the Government of a State;
- (c) any local authority and any other statutory authority; and
- (d) any department or service of the Government of Malaysia, the Government of a State, or a local authority;

“committee” means a committee established under section [198](#);

“Complaints Committee” means the Complaints Committee established under section [253](#);

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“public body” includes—

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(f) the Government of a State;

(g) any local authority and any other statutory authority; and

(h) any department or service of the Government of Malaysia, the Government of a State, or a local authority;

“committee” means a committee established under section [198](#);

“Complaints Committee” means the Complaints Committee established under section [253](#);

“Head of Department” means any member of the police force charged with such control as is provided for in section 6 of the Police Act 1967 [Act 344];

“Disciplinary Board” means the Disciplinary Board ~~established—the members of which are appointed by the Commission~~ under subsection ~~48~~ ~~31~~(3);

“Minor Misconduct Disciplinary Board” means the Minor Misconduct Disciplinary Board the members of which are appointed by the Commission under subsection 36(1);

“Task Force” means a Task Force established under section ~~4629~~; “officer of the Commission” means any officer appointed under section ~~176~~ and includes the Secretary appointed under section ~~154~~;

“misconduct” means misconduct as specified in section ~~232~~;

“minor misconduct” means any misconduct prescribed under subsection 22(2);

“Commission” means the Independent Commission for Police Misconduct ~~Police Complaints of Misconduct Commission~~ established under section ~~3~~;

“Police Force Commission” means the Police Force Commission established under Article 140(1) of the Federal Constitution.

PART II

ESTABLISHMENT, FUNCTIONS AND POWERS OF COMMISSION

Establishment of Commission

5. (1) The Independent Commission for Police Misconduct ~~Police Complaints of Misconduct Commission~~ is established.

(2) The Commission shall be a body corporate and shall have perpetual succession and a common seal.

(3) The Commission may sue and be sued in its name.

(4) The Commission may, upon such terms as the Commission thinks fit and for the purposes of this Act—

- (a) enter into contracts;
- (b) acquire, purchase, take, hold and enjoy movable and immovable property of every description; and
- (c) convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property or any interest in the property vested in the Commission.

Functions of Commission

6. The functions of the Commission shall be as follows:

- (a) to promote integrity within the police force;
- (b) to receive complaints made by members of the public against the police force and to inquire into these complaints and in particular to detect, investigate and prevent police corruption and other serious misconduct.
- ~~(b)~~(c) to protect the interest of the public by dealing with misconduct of any member of the police force;
- ~~(c)~~(d) to formulate and put in place mechanisms for the detection, investigation and prevention of misconduct of any member of the police force;
- ~~(d)~~(e) to advise the Government and make recommendations on appropriate measures to be taken in the promotion of integrity within the police force; and
- ~~(e)~~(f) to exercise disciplinary control over all members of the police force in such manner as may be provided in this Act or any written law.

Powers of Commission

7. (1) The Commission shall have the power and may do all things necessary for, or in connection with, or incidental to, the performance of its functions under this Act.

(2) In addition, and wWithout prejudice to the generality of subsection (1), the Commission shall have the following powers ~~may~~—

- (a) advise the Government on the enhancement of the well-being and welfare of members of the police force;
- (b) assist the Government in formulating legislation or recommend administrative measures to the Government or the police force, to promote integrity and abolish misconduct;
- (c) provide for the auditing and monitoring of particular aspects of the facilities, logistics, operations and standard operating procedure, of the police;
- (d) visit any place and premises such as police stations, police quarters, lock-ups and detention centres and to make any necessary recommendations;
- (e) study and verify any infringement of the standards operating procedure of the police and make any necessary recommendations;
- (f) receive and assess any complaint of misconduct from any person against any member of the police force and investigate the complaint; and
- (g) collect and process any information and evidence relating to any investigation under this Act and take such lawful measures and do such lawful acts as may be necessary relating to it.

Members of Commission

8. (1) The Yang di-Pertuan Agong shall, on the advice of the Prime Minister, appoint not more than ten members of the Commission, of whom there shall be a Chairman and a Deputy Chairman, for such period and on such terms as may be specified in the instrument of appointment.
- (2) The members of the Commission shall have knowledge, skill and experience, or shown capacity and professionalism, in matters relating to law, administration, finance or any other matter relevant to the functions of the Commission.
- (3) No person shall be appointed as a member of the Commission if he is or was a member of the police force, or if he is a member of the public service.
- (4) Any appointment made under subsection (1) must be conducted in accordance with section 7 of this Act.

Selection Process

9. (1) The Prime Minister, prior to advising the Yang Di-Pertuan Agong under Section 6(1) of this Act, must conduct an open selection process to consider the selection of persons for vacancies in the Commission.
- (2) An open selection process shall have the following criteria—
- (a) Open for application by members of the public to be a candidate;
- (b) Fair and transparent; and
- (c) Completed within a reasonable time.
- (3) The Prime Minister in selecting candidates shall take into account among others, the following criteria ---
- (a) integrity, competency and experience;

(b) objective, impartial, fair and good moral character;

(c) physical and mental health; and

(d) diversity amongst members of the Commission.

- (4) As soon as may be after the Prime Minister have made the selection of persons for vacancies in the Commission, he shall lay a report on his selection before the House of Representatives.
- (5) If the House of Representatives approves the selection of the Prime Minister, the Prime Minister shall advise the Yang Di-Pertuan Agong under Section 6(1) of this Act to appoint such person to fill up the vacancy in the Commission.
- (6) If a motion for approval under subsection (4) is rejected by the House of Representatives, or is withdrawn by leave of the House, or is not supported by the votes of not less than one-half of the total members of the House, the Prime Minister, the Prime Minister shall repeat the open selection process under subsection (1).

~~(1) The Yang di Pertuan Agong shall, on the advice of the Prime Minister, appoint not more than ten members of the Commission, of whom there shall be a Chairman and a Deputy Chairman, for such period and on such terms as may be specified in the instrument of appointment.~~

~~(2) No person shall be appointed as a member of the Commission if he is or was a member of the police force, or if he is a member of the public service.~~

Term of office

- 9.10. (1) Subject to subsection (2), a member of the Commission shall hold office for a term not exceeding ~~five~~^{three} years as may be specified in his instrument of appointment ~~and he shall be eligible for reappointment.~~
- (2) ~~No person shall hold the office of a member of the Commission for more than two terms consecutive~~The office of the Commission is a full-time office.
- (3) A member of the Commission may at any time resign his office by letter addressed to the Yang di-Pertuan Agong.
- ~~(4)~~ The appointment of a member of the Commission may at any time be revoked by the Yang di-Pertuan Agong in accordance with this section.
- ~~(4)~~(5) The Prime Minister may lay a motion before the House of Representatives for the revocation of the appointment of a member of the Commission on ground of any breach of ground of misconduct.
- ~~(5)~~(6) If the House of Representatives approves the motion, the Prime Minister shall advise the Yang Di-Pertuan Agong to revoke the appointment of the member of the Commission in accordance subsection (3).

Remuneration

- 10.11. A member of the Commission shall be paid such remuneration and allowances as ~~the Yang di-Pertuan Agong~~Parliament may determine.

Vacation of office

11.12. The office of a member of the Commission shall be vacated—

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment or fine of not more than two thousand ringgit;
- (c) if he becomes a bankrupt;
- (d) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) if he absents himself from three consecutive meetings of the Commission without leave of the Commission;
- (f) if he is elected or appointed as a member of a House of Parliament or the State Legislature of any State;
- (g) if his resignation has been accepted by the Yang di-Pertuan Agong;
- (h) if his appointment has been revoked by the Yang di-Pertuan Agong; or
- (i) if his term of appointment has expired.

Meetings

- 12.13.** (1) The Commission shall meet at least twice a month or as often as may be necessary for the performance of its functions.
- (2) The Chairman shall preside at all meetings of the Commission.
- (3) The quorum of a meeting of the Commission shall be five.
- (4) Every member of the Commission present shall be entitled to one vote and if on a question to be determined by the Commission there is an equality of votes, the Chairman shall have a casting vote.
- (5) The Commission shall cause minutes of all its meetings to be maintained and kept in a proper form.
- (6) The Commission may invite any person or any representative from the police force to attend its meeting for the purpose of advising the Commission on any matter under discussion but that person shall not be entitled to vote at the meeting or be present during the making of a decision.
- (7) The Commission shall regulate its own proceedings.

Temporary exercise of functions of Chairman

- 13.14.** Notwithstanding subsection 10(2), where the Chairman is for any reason unable to perform his functions, or during any period of vacancy in the office of the Chairman, the Deputy Chairman or, if he is unavailable, any member of the Commission appointed by the other members, shall perform the functions of the Chairman.

Disclosure of interest

14.15. A member of the Commission having, directly or indirectly, by himself, a member of his family or his associate, any interest in any matter under discussion by the Commission or in any discussion on a misconduct under this Act before the Commission, shall disclose to the Commission the fact and nature of his interest and such disclosure shall be recorded in the minutes or notes of the discussion on the misconduct and the member of the Commission shall recuse himself from taking part in such discussion or in the making of any decision by the Commission relating to, the misconduct.

Delegation of functions and powers of Commission

15.16. (1) The Commission may delegate its functions and powers—

(a) to any member of the Commission; ~~and~~

(b) to any committee; ~~or~~

(c) to any officer of the Commission; or

~~(d) to any member of the police force.~~

(2) A member of the Commission, a committee an officer of the Commission ~~or a member of the police force~~ delegated with such functions and powers under subsection (1) shall be bound to observe and have regard to all conditions and restrictions imposed by the Commission and all requirements, procedures and matters specified by the Commission, relating to such delegation.

(3) Any function and power delegated under this section shall be performed and exercised in the name and on behalf of the Commission.

- (4) A delegation under this section shall not preclude the Commission from itself performing or exercising at any time any of the delegated functions and powers.

PART III

ADMINISTRATION

Secretary

- 16.17.** (1) The Commission shall have a ~~Secretary~~ who shall be the chief executive officer of the Commission.
- (2) The Secretary shall be appointed by the Commission who shall be an officer of the Commission.
- (3) The Secretary shall be appointed on such terms and shall have such functions as the Commission may determine for the purpose of carrying into effect the provisions of this Act.

Temporary exercise of functions of Secretary

- 17.18.** (1) The Commission may appoint any officer of the Commission to act temporarily as the Secretary during any period when—
- (a) the office of the Secretary is vacant;
- (b) the Secretary is absent from duty or from Malaysia;
or
- (c) the Secretary is, for any other reason, unable to perform the duties of his office.

Officers

18.19. (1) There shall be appointed such number of officers of the Commission as may be necessary to assist the Commission in discharging its functions and exercising its powers effectively and efficiently and for the purpose of carrying into effect the provisions of this Act.

(2) The Commission may appoint any officers, including from any government agency, on secondment basis to be its investigators.

(3) The Commission may appoint such number of legal officers as may be necessary who shall be seconded from amongst officers of the Judicial and Legal Service or appointed from amongst advocates and solicitors to assist the Commission.

(4) An officer of the Commission having directly or indirectly, by himself, a member of his family or his associate, any interest or connection to a member of the police force under investigation by the Commission shall disclose his interest or connection forthwith to the Chairman and shall not be involved in any investigation conducted by the Commission as regards that member of the police force.

Consultants

19.20. (1) The Commission may engage any person, including retired or former members of the police force, on such terms as the Commission may impose, as consultants or to perform such services as the Commission thinks appropriate.

(2) A person engaged under subsection (1) having directly or indirectly, by himself, a member of his family or his associate, any interest or connection to a member of the police force under investigation by the Commission shall disclose his interest or connection forthwith to the Chairman and shall not be involved in any investigation conducted by the Commission as regards that member of the police force.

Committees

- 20.21. (1) The Commission may establish such committees to assist it in the performance of its functions under this Act.
- (2) The Commission may elect any of its members to be the chairman of a committee.
- (3) The Commission may appoint any members or officer of the Commission to be a member of any committee.
- (4) A committee shall be subject to and act in accordance with any direction given to the committee by the Commission.
- (5) The Commission may at any time discontinue or alter the constitution of a committee.
- (6) A member of a committee shall be paid such allowances as the ~~Prime Minister~~Parliament may determine.

Authority card

- 21.22. (1) For the purposes of this Act, an authority card shall be issued to a member and an officer of the Commission.
- (2) The authority card shall be signed by the Chairman of the Commission and such card shall be *prima facie* evidence of the appointment under this Act.

(3) A member or an officer of the Commission acting under this Act shall, on demand, declare his office and produce to the person against whom he is acting or from whom he seeks any information the authority card issued to him.

Use of staff or facilities of government department, etc.

22.23. (1) The Commission may request and arrange for the use of the services of—

- (a) any staff or facilities of a government department or a local or statutory authority; or
- (b) any government officer including a member of the police force to cooperate with, or assist in the exercise of its duties, or to assist the Commission in the performance of its functions under this Act.

(2) It shall be the duty of the- government departments or local or statutory authority or government officer referred to in subsection (1) to comply with a request under that subsection.

Cooperation with other agencies

23.24. (1) The Commission may, in exercising its functions, work in cooperation with other enforcement agencies, any Federal or State government department, or any person or body, as the Commission thinks appropriate.

(2) The Commission may consult with, and disseminate information to, other enforcement agencies, any Federal or State government department, or any person or body as the Commission thinks appropriate.

(3) Any information disseminated under this section shall be treated as confidential, and any person or body who received such information shall be subject to the secrecy provisions of section 48 44 in relation to the information.

PART IV

COMPLAINT OF MISCONDUCT

Scope of misconduct

23. (1) Any conduct failing under any of the following descriptions shall amount to a misconduct: The Commission shall may receive or deal with complaints against any member of the police force referred to it, on the following misconduct:

- (a) any act or inaction which is contrary to any written law;
- (b) non-compliance of rules and standard operating procedure of the police which has had an adverse effect on a member of the public;
- (c) any act or inaction which is unreasonable, unjust, oppressive or improperly discriminatory;
- (d) any act or inaction which is committed on improper motives, irrelevant grounds or irrelevant consideration;
- (e) omission to provide grounds in cases where grounds should have been provided; and
- (f) the commission of any criminal offence by a member of the police force.

(2) The Prime Minister may, on the advice of the Commission, by order published in the *Gazette* prescribe any conduct which may be categorized as a minor misconduct.

The misconduct of a police officer may be investigated by the Commission ~~–(2) Notwithstanding subsection (1), misconduct shall not include any act regulated under sections 96 and 97 of the Police Act 1967 [Act 344].~~

(a) whether or not it also involves participants who are not police officers;

(b) whether or not it occurred while the police officer was officially on duty;

(c) whether it occurred within or outside Malaysia; or

(d) whether or not it occurred before the commence of this Act.

(3) Sections 26, 27 and 28 shall apply to a minor misconduct subject to any modification made by the Prime Minister, on the advise of the Commission, for the purpose of removing any difficulties, by order published in the *Gazette*.

(4) Misconduct of a police officer may be dealt with, or continue to be dealt with, under this Act even though any police involved has ceased to be a police officer. Accordingly, references in this Act to a police officer, extend, where appropriate, to include a former police officer.

Residual powers of the Police Force Commission ~~Complaints Committee~~

25. The Police Force Commission shall retain disciplinary control over members of the police force for matters not falling within the scope of misconduct under Section 23 of this Act.

Complaints Committee

24.26. The Commission shall establish a Complaints Committee which shall be chaired by a member of the Commission and consist of such number of members and officers of the Commission as determined by the Commission.

Complaint against police

25.27. (1) Any complaint ~~made~~ by any person against the police force or a member of the police force shall be made ~~in writing ('in writing' also deleted by govt amendments)~~ and be addressed to the Complaints Committee.

(2) Where any complaint against the police force or a member of the police force is made by any person directly to the Head of Department, the Head of Department shall immediately refer such complaint to the Complaints Committee.

(3) The Complaints Committee shall deliberate on the complaint received and decide on the classification of such complaints as specified in section 275.

~~(4) In this section, "Head of Department" means any member of the police force charged with such control as is provided for in section 6 of the Police Act 1967.~~

Classification of complaints

26.28. (1) The classification of complaints shall be as follows:

- (a) where the complaint involves any offence ~~under Part IV of the Malaysian Anti-Corruption Act- 2009 [Act 694],~~ the complaint shall be referred to the Malaysian Anti-Corruption Commission shall be notified of the complaint;

- (b) where the complaint involves any criminal offence under any other written law, ~~the complaint shall be referred to the relevant authority~~ shall be notified of the complaint;
- (c) where the complaint involves any ~~other than a minor misconduct, misconduct mentioned in section 232~~, the complaint shall be investigated by the Complaints Committee or referred to any officer of the Commission for investigation; ~~and~~
- (d) where the complaint involves any minor misconduct, the complaint shall be referred to the Head of Department for investigation; and
- (e) where—
- (i) the complaint is frivolous, vexatious or not made in good faith, or the subject matter of the complaint is trivial;
- (ii) ~~the misconduct complained of occurred at too remote a time to justify an investigation; or~~

~~there is or was available to the complainant an alternative and satisfactory means of redress;~~

- (i) ~~the subject matter of the complaint has been finally determined by any court or is the subject matter of any proceedings pending in any court, including any appeal proceedings; or~~
- (ii) the complaint is repetitious and contains no fresh allegation which would significantly affect the content of the complaint,

the Complaints Committee shall recommend to the Commission to reject the complaint.

(2) Nothing in subsection (1)(a) and (b) shall be construed to prevent the Commission from investigating the complaint under this Act.

PART V

INVESTIGATION POWERS AND HEARING

Powers of the Commission relating to investigation~~Power to examine persons~~

29. (1) The Commission shall, for the purposes of an investigation under this Act, have the power—

- (a) to conduct hearings if the Commission considers necessary or desirable to do so;
- (b) to procure and receive all such evidence, whether written or oral, and to examine all such persons as witnesses as the Commission considers necessary or desirable to procure or examine;
- (c) to require the evidence, whether written or oral, of any witnesses to be made on oath or affirmation (such oath or affirmation to be that which could be required of the witness if he was giving evidence in a court of law) or by statutory declaration;
- (d) to summon any person residing in Malaysia to attend any meeting or hearing of the Commission to give evidence or produce any document or other thing in his possession;

(e) to issue a warrant of arrest to compel the attendance of any person who, after having been summoned to attend, fails to do so and does not excuse such failure to the satisfaction of the Commission, and to order such person to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons, and also to fine such person a sum not exceeding five thousand ringgit;

~~(b)~~(f) to fine in a sum not exceeding five thousand ringgit any person who, being required by the Commission to give evidence on affirmation or to produce a document or other thing, refuses to do so and does not excuse such refusal to the satisfaction of the Commission;

~~(e)~~(g) to admit, notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings;

~~(d)~~(h) to award any person who has attended any meeting or hearing of the Commission such sums as in the opinion of the Commission may have been reasonably incurred by such person by reason of such attendance; and

(i) to admit or exclude the public from such hearing or any part thereof.

(2) Notwithstanding paragraph (1)(d), where a person summoned is a person under detention under any written law, such summons shall be issued in accordance with the laws applicable in relation to the place of detention.

Power to examine persons

~~27.30.~~ (1) ~~For the purpose of an investigation, the Commission or a~~An officer of the Commission may, ~~in conducting any investigation under this Act,~~ by a written notice—

- (a) order any member of the police force or any officer of a public body or any person to attend before him for the purpose of being examined orally in relation to any matter which may, in his opinion, assist in the investigation; or
- (b) order any member of the police force or any officer of a public body or any person to furnish a statement in writing made on oath or affirmation setting out therein all such information which may be required under the notice, being information which, in the opinion of the officer of the Commission, would be of assistance in the investigation, within the time specified by such officer of the Commission.

(2) A person to whom a written notice has been given under paragraph (1)(a) shall—

- (a) attend in accordance with the terms of the notice to be examined, and shall continue to attend from day to day where so directed until the examination is completed; and
- (b) during such examination, disclose all information which is within his knowledge, or which is available to him, in respect of the matter in relation to which he is being examined, and answer any question put to him truthfully and to the best of his knowledge and belief.

(3) An officer of the Commission examining a person under paragraph (1)(a) shall record in writing any statement made by the person and the statement so recorded shall be read to and signed by the person, and where such person refuses to sign the record, the officer shall endorse thereon under his hand the fact of such refusal and the reasons for the refusal, if any, stated by the person examined.

(4) Any person who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Power to obtain documents or other things

28.31. (1) For the purpose of an investigation under this Act, the Commission or an officer of the Commission may, by notice served on any member of the police force or any officer of a public body or any person, require the member of the police force, officer of the public body, or the person, to produce documents or other things related to the investigation or which in the opinion of the Commission are relevant.

(2) A notice under this section—

(a) shall specify or describe the documents or other things concerned; and

(b) shall fix a time and date for compliance of the notice.

(3) The notice may provide that the requirement may be satisfied by some other person or class of persons acting on behalf of any member of the police force, any officer of the public body or any person and may, but need not, specify the person or class of persons who may so act.

(4) Any person who has been served with a notice under this section—

- (a) who fails to comply with such notice; or
- (b) who furnishes any information knowing it to be false or misleading in a material particular,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Findings of investigation

Legal obligation to give information

29.32. (1) Subject to such limitation as is provided under this Act, every person required by a Commissioner to give any information on any subject which it is such Commissioner's duty to inquire into under this Act and which is in that person's power to give, shall be legally bound to give the information.

(2) Any person who contravenes subsection (1), commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Self-Incrimination

33. (1) This section applies where, under section 29 or 30, the Commission requires a body corporate or any public body or statutory authority or any officer of such body or authority or any person –

- (a) to produce any statement of information, or
- (b) to produce any document or other thing.

(2) If the statement, document or other thing tends to incriminate the person and the person objects to production at the time, neither the fact of the requirement nor the statement, document or thing itself, if produced, may be used in any proceedings against the person except in proceedings for an offence against this Act.

(3) The statement, document or other thing may however be used for the purposes of the investigation concerned, despite any such objection.

Power to enter public premises

34. (1) For the purposes of an investigation, the Commissioner or an officer of the Commission authorized in writing by the Commissioner may, at any time –

(a) enter and inspect any premises occupied or used by a public body or statutory authority or an officer or employee of such a body or authority in that capacity;

(b) inspect any document or other thing in or on the premises, and

(c) take copies of any document in or on the premises.

(2) The public body or statutory authority or an officer or employee of the body or authority must make available to the Commissioner or authorized officer of the Commission such facilities as are necessary to enable the powers conferred by this section to be exercised.

Hearings

35. (1) For the purposes of an investigation, the Commission may hold a hearing if the Commission deems it necessary or expedient.

(2) A hearing shall be presided by such number of Commissioners as the Commission deems fit on a case-to-case basis.

(3) A person appearing at a hearing is entitled to be informed of the general scope and purpose of the hearing, unless the Commission is of the opinion that to disclose such information would seriously prejudice the investigation concerned.

(4) The Commission may be assisted by an officer appointed under this Act.

Public and closed hearings

36. (1) All hearings are to be open to the public.

(2) Notwithstanding subsection (1), a hearing or part of a hearing may be closed to the public if the Commission is satisfied that—

(a) information or documents that may be given, or a matter that may arise during the public hearing or a part of the hearing is of a confidential nature; or

(b) the hearing or part of the hearing of a matter or part of a matter would not be conducive to the due administration of this Act if the hearing or part of the hearing is open to the public.

(3) In making these decisions, the Commission is obliged to have regard to any matters that it considers to be related to public interest.

(4) The Commission may give directions as to the persons who may be present at a hearing when it is being held as a closed hearing, and no person shall be present at the hearing in contravention of any such direction.

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Right of appearance of interested person

37. If it is shown to the satisfaction of the Commission that any person is substantially and directly interested in any subject matter of a hearing, the Commission may authorize the person to appear at the hearing or a specified part of the hearing.

Legal representation

38. (1) The Commission may, in relation to a hearing, authorize—

(a) a person giving evidence at the hearing; or

(b) a person referred to in section 36,

to be represented by a legal practitioner at the hearing or a specified part of the hearing.

(2) The Commission may be assisted by a legal officer appointed under section 14 should the Commission deems it necessary.

Examination of witnesses

39. (1) A person authorized or required to appear at a hearing or his legal practitioner may, with the leave of the Commission, examine any witness on any matter that the Commission considers relevant.

(2) The legal officer appointed by the Commission to assist it may examine any witness on any matter that the Commission considers relevant.

(3) A witness examined under this section has the same protection and is subject to the same liabilities as if examined by a Commissioner.

Privileged documents, answers, etc.

30.40. (1) A witness summoned to attend or appearing before the Commission at a hearing shall not refuse—

- (a) to be sworn or to make an affirmation;
- (b) to answer any question relevant to an investigation put to the witness by a Commissioner at the hearing; or
- (c) to produce any document or other thing in the custody or control of the witness that the witness is required by the notice or by the Commission to produce.

(2) A witness summoned to attend or appearing before the Commission at a hearing is not excused from answering any question or producing any document or other thing on the ground that the answer, document or other thing may incriminate or tend to incriminate the witness, or on any other ground of privilege, duty of secrecy or other restriction on disclosure, or on any other ground.

(3) An answer made, or document or other thing produced, by a witness at a hearing before the Commission is not, except as otherwise provided in this section, admissible in evidence against the person in any civil or criminal proceedings.

(4) Nothing in this section makes inadmissible—

- (a) any answer, document or other thing in proceedings for an offence against this Act or in proceedings for contempt under this Act;
- (b) any answer, document or other thing in any civil or criminal proceedings if the witness does not object to giving the answer or producing the document or other thing irrespective of the provisions of sub section (2); or

~~(b)~~(c) any document in any civil proceedings for or in respect of any right or liability conferred or imposed by the document or other thing.

Power to search with warrant

31.41. (1) If it appears to a Magistrate, upon written information on oath from a Commissioner or an officer of the Commission and after such inquiry as the Magistrate considers necessary, that there is reasonable cause to believe that—

- (a) any premises has been used for; or
- (b) in any premises, there is evidence necessary to investigate,

the misconduct, the Magistrate may issue a warrant authorizing the Commissioner or an officer of the Commission named therein, at any reasonable time by day or night and with or without assistance, to enter the premises and if need be, by force.

(2) A warrant issued under subsection (1) may authorize the Commissioner or an officer of the Commission to—

- (a) search the premises for, and to seize or remove from the premises, any conveyance, contrivance, equipment, book, record, document or other article that is reasonably believed to furnish evidence of the misconduct;
- (b) take samples of any thing found in the premises for the purposes of ascertaining, by testing or otherwise, whether the misconduct has been committed; and
- (c) make copies of or take extracts from any book, record, document or other article found in the premises.

(3) The Commissioner or an officer of the Commission entering any premises under this section may take with him such other persons and equipment as may appear to him to be necessary.

(4) The Commissioner or an officer of the Commission may, in the exercise of his powers under this section, if it is necessary so to do—

- (a) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry into the premises;
- (b) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect under this section; and
- (c) detain any person found in the premises until the search has been completed.

Search and seizure without warrant

32.42. Whenever the Commissioner or an officer of the Commission has reasonable cause to believe that any conveyance, contrivance, equipment, book, record, document or other article that is reasonably believed to furnish evidence of the misconduct is likely to be found in or on any place, premises, person or conveyance and that by reason of delay in obtaining a warrant under section 40 the object of the search may be frustrated, he may, without warrant, with such assistance and force as is necessary—

- (a) enter and search such place or premises;
- (b) stop and search such person or conveyance; and
- (c) seize any conveyance, contrivance, equipment, book, record, document or other article which may be found and may be evidence of the misconduct.

List of things seized

- 43.** (1) Where any seizure is made under this Act, the Commissioner or an officer of the Commission making the seizure shall prepare a list of every conveyance, contrivance, equipment, book, record, document or other article seized and of the place in which it was found and shall sign the list.
- (2) The list shall be given to—
- (a) the occupant of the place or premises where the conveyance, contrivance, equipment, book, record, document or other article seized was found; and
 - (b) the person in control or in charge of the conveyance, where the seizure is made in regards of the conveyance or anything in the conveyance.
- (3) Where the seizure is made in or from any place or premises which are unoccupied, the Commissioner or an officer of the Commission shall whenever possible post a list of things seized conspicuously at the place or premises.

Release of seized conveyance, etc.

- 33.44.** A Commissioner or an officer of the Commission authorized by a Commissioner may, where he thinks fit, at any time direct that any conveyance, contrivance, equipment, book, record, document or other article seized under this Act be released to the person from whose possession, custody or control it was seized.

Secrecy provisions in other Acts

- 34.45.** All provisions relating to secrecy shall not apply to the divulging of information or the production of any document pursuant to a requirement made under this Act.

Findings of investigation

~~35.~~—(1) Where an investigation into any complaint of misconduct under this Act has been completed, the Complaints Committee shall take the following action.~~The officer of the Commission shall, upon the completion of any investigation, submit his findings to the Complaints Committee.~~

~~36.46.~~ (1) ~~The Complaints Committee may, upon considering the findings of the officer of the Commission, take the following action:~~

~~(a) where the findings disclosed any offences under Part IV of the Malaysian Anti-Corruption Act 2009, notify the Malaysian Anti-Corruption Commission of the findings;~~

~~(b) where the findings disclosed any criminal offence under any written law, notify the relevant authority of the findings;~~

~~(c) where the findings disclosed any misconduct, refer the findings of misconduct to the Commission for the purpose of commencing of proceedings to deal with a misconduct under Part VI; and~~

~~(d) where the findings disclosed no misconduct, record the findings.~~

(2)

~~(a) where the findings disclosed any offences under Part IV of the Malaysian Anti-Corruption Act 2009, refer the findings to the Malaysian Anti-Corruption Commission;~~

~~(b) where the findings disclosed any criminal offence under any written law, refer the findings to the relevant authority;~~

~~(c) where the findings disclosed any misconduct, refer the findings of misconduct to the Commission for the purpose of commencing of proceedings to deal with a misconduct under Part VI; and~~

(d) ~~where the findings disclosed no misconduct, record the findings.~~

Notwithstanding (1)(a) and (b) of this section, the Complaints Committee may refer to the Public Prosecutor of its findings if it disclosed any offences under Part IV of the Malaysian Anti-Corruption Act 2009 or any criminal offence under any written law for the purposes of criminal prosecution.

(3) The Complaints Committee shall inform the complainant of the action taken on the complaint.

(4) The Complaints Committee shall provide reasons for its findings under subsection (1).

(5) Nothing in subsection (1)(a) and (b) and (3) shall be construed to prevent the Complaints Committee from referring the findings of misconduct to the Commission under (1)(c).

Task Force

37.47. (1) The Commission may establish such number of Task Forces to assist the Commission in the investigation of misconduct under this Act.

(2) The members of the Task Force may comprise of the officers of the Commission and the consultants engaged under section 187.

(3) For the purpose of investigating any incident under section 51 47, the members of ~~a Task Force~~ shall have all the powers of investigation as contained in the Criminal Procedure Code [*Act 593*] and such powers shall be in addition to the powers provided for under this Act and not in derogation thereof.

Commission may initiate investigation

38.48. (1) Notwithstanding anything to the contrary in this Act, the

Commission may commence an investigation on its own initiative but only if the Commission is satisfied that the subject matter of the investigation is of significant interest to the public or that it is

in the public interest to do so whether or not there is a complaint of misconduct relating to it.

(2) The investigation referred to in subsection (1) shall be conducted in accordance with Part V of this Act.

PART VI

PROCEEDINGS TO DEAL WITH MISCONDUCT

Disciplinary authority

39.49. (1) The Commission shall have disciplinary authority over any misconduct committed by any member of the police force.

(2) The Commission may exercise disciplinary jurisdiction over any complaint concerning the misconduct of- any member of the police force.

(3) The Commission shall appoint members of the Disciplinary Board as specified in the First Schedule; The Commission shall establish a Disciplinary Board which shall have the jurisdiction, and consist of members, as specified in the Schedule.

(4) The Disciplinary Board shall have the jurisdiction to deal with misconduct other than minor misconduct.

(5) The Commission may appoint any member of the police force to exercise disciplinary jurisdiction over any complaint of minor misconduct;

(6) Notwithstanding subsection (3), where the complaint of misconduct is against the Inspector General of Police, the Chief Secretary to the Government shall establish a Special Disciplinary

~~Board to hear the complaint and the proceedings before the Special Disciplinary Board shall be conducted in accordance with regulations made under Article 132 of the Federal Constitution.~~

Proceedings to deal with misconduct other than minor misconduct

~~40.50.~~ 32. (1) The Disciplinary Board may, upon considering the findings under section ~~4428~~ and upon completion of an investigation under section ~~4630~~, conduct proceedings to deal with a misconduct.

(2) The proceedings to deal with a misconduct shall be conducted in accordance with regulations made under this Act.

(3) The Disciplinary Board ~~shall~~ complete the proceedings to deal with any misconduct in such manner as the Commission considers most appropriate for a just and expeditious disposal.

Proceedings to deal with minor misconduct

33. The proceedings to deal with a minor misconduct shall be conducted by any member of the police force appointed under subsection 31(5) in accordance with regulations made under this Act.

Punishment for misconduct

~~41.51.~~ 34. (1) The Disciplinary Board may, impose any or more of the following punishments:

- (a) warning;
- (b) fine;
- (c) forfeiture of emoluments;
- (d) deferrals of salary movements;
- (e) reduction of salary;

(f) reduction in rank; or

(g) dismissal.

(2) Any member of the police force appointed under subsection 31(5) may impose any one or more punishment under subsection (1) except punishments under paragraph (1)(f) and (g);

(3) The imposition of the punishment specified under subsection (1) and (2) shall be made in accordance with regulations made under this Act.

(3) The Disciplinary Board shall inform the complainant of its decision under (1).

(4) The Disciplinary Board shall provide reasons for its decision under (1).

Appeals against decision relating to minor misconduct

35. Any member of the police force who is aggrieved by any decision imposed on him by any member of the police force appointed under subsection 31(5) may appeal to the Disciplinary Appeal Board within a period of twenty one days after the decision has been communicated to him in writing.

Appointment of members of the Minor Misconduct Disciplinary Appeal Board

36. (1) The Commission shall appoint members of the Minor Misconduct Disciplinary Appeal Board as specified in the Second Schedule.

(2) The Minor Misconduct Disciplinary Appeal Board shall have the power to receive, consider and determine any appeal submitted by any member of the police force.

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Decision of the Minor Misconduct Disciplinary Appeal Board

37. (1) In considering an appeal under subsection 36(2), the Minor Misconduct Disciplinary Appeal Board may –

(a) confirm the decision;

(b) vary the punishment to a lesser punishment; or

(c) reverse the decision and punishments and acquit that member of the police force from the charge against him.

(2) The Minor Misconduct Disciplinary Appeal Board shall not review its decision made under subsection (1).

PART VII

OFFENCES

Threats against person who gives evidence

~~42.52.~~ 38. (1) A person who hinders or attempts to hinder any person from giving evidence before the Commission or by threats, deters or attempts to deter any person from giving such evidence, commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) A person who threatens, insults or injures any person for having given evidence, or on account of the evidence which the person has given before the Commission, commit an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Contempt

43.53. 39. (1) A person who commits an act of contempt against any member of the Commission commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(2) For the purpose of this section, an “act of contempt” means—

- (a) non-compliance of any request made under section 54(2) of this Act;
- (b) any ~~act of disrespect or any insult or any~~ threat to any member of the Commission at any time and place on account of him proceeding in his capacity as a member of the Commission; or
- (c) any act other than that provided in paragraph (a) that, if the Commission were a court of law having power to commit for contempt, would be contempt of that court.

PART- VIII MISCELLANEOUS

Surcharge

44.54. 40. (1) The Commission may impose a surcharge on any member of the police force in accordance with the Financial Procedure Act 1957 [*Act 61*].

(2) Every imposition of surcharge under subsection (1) shall be recorded in the members of the police force's record of service.

Supply of information

45.55. 41. (1) The Commission may compile, supply and supply-make recommendations the police force or any relevant authority with such statistical information —or any other general information which the Commission considers should be brought to the attention of the police force or relevant authority in connection with the functions of the Commission under section 4 and powers under section 5 to enable the police force or relevant authority to carry out their functions under any written law.

(2) The Commission may request from the police force or any relevant authority any statistical information or any other general information in connection with the functions of the Commission under section 4 and powers of the Commission under section 5.

(3) The police force or any relevant authority shall inform the Commission of such action taken arising from the supply of information or recommendations made by the Commission under subsection (1) within fourteen days from the date of receipt of such information from the Commission.

(4) If the Commission makes any request for information from the police force or any relevant authority under subsection (2), the police force or any relevant authority shall provide the Commission with the information requested the Commission under subsection (1) within fourteen days from the date of receipt of such request for information by the Commission.

(5) The Commission shall cause all statistical information or any other general information under subsection (1) to be made easily accessible to the public.

Protection from liability

~~46.56.~~ 42. (1) No action, suit, prosecution or proceeding shall be instituted in any court against the Commission, any member of the Commission, or any officer of the Commission in respect of any act or thing done or committed by or on behalf of the Commission or by any member of the Commission or any officer of the Commission in such capacity provided that the Commission or such member or officer at the time had carried out its or his functions in good faith.

(2) An advocate and solicitor assisting the Commission or representing a person before the Commission has the same protection and immunity as an advocate and solicitor appearing for a party in any proceedings in the Court.

(3) Subject to this Act, a person summoned to attend or appearing before the Commission as a witness, or producing a document or other thing to the Commission, has the same protection as a witness in any proceedings in the Court.

(4) No criminal or civil liability apart from this Act attaches to a person for compliance, or purported compliance in good faith, with any requirement made under this Act; in particular, if a person gives any record of examination or a written statement on oath or affirmation or produces any document or other thing under this Act, no civil liability attaches to the person for doing so, whether that liability would arise under a contract or otherwise.

(5) No evidence, document or findings of the Commission under this Act shall be admissible in any civil or criminal proceedings whatsoever against the person who gave the evidence if the person objects to giving any record of examination or a written statement on oath or affirmation or produces any document or other thing.

Allocation of annual funds

~~47.57.~~ 43. The Parliament shall make allocation of adequate funds annually for the purposes of the Commission to enable the Commission to discharge its functions and exercise its powers effectively under this Act.

Statutory Bodies (Accounts and Annual Reports) Act 1980

~~48.58.~~ 44. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Commission.

Annual report

~~49.59.~~ 45. (1) The Commission shall not later than the second meeting of Parliament of the following year, submit and to be tabled an annual report to Parliament of all ~~its~~ activities during the year to which the report relates.

(2) The report shall ~~contain~~ a list of all matters referred to the Commission and the action taken in respect of them.

Public Authorities Protection Act 1948

~~50.60.~~ 46. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Commission, any member of the Commission, or officer of the Commission in respect of any act or thing done or committed by it or him in such capacity.

Public servant

~~51.61.~~ 47. Every member of the Commission or officer of the

Commission, while discharging his duties as such member or officer shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

Obligation of secrecy

52.62. 48. (1) Except for the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law or where otherwise authorized by the Commission—

- (a) no member of the Commission, officer of the Commission or Consultant, whether during or after his tenure of office or employment, shall disclose any information obtained by him in the course of his duties; and
- (b) no other person who has by any means access to any information or documents relating to the affairs of the Commission shall disclose such information or document.
- (c) no other person who has by any means access to any information or documents relating to the affairs of the Commission shall disclose such information or document.

(3) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Institution and conduct of prosecution

53.63. 49. No prosecution in respect of any offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Protection of person assisting Commission

54.64. 50. (1) If it appears to the Commission that, because a person is assisting the Commission, the safety of the person or any other person may be prejudiced or the person or other person may be subject to intimidation or harassment, the

Commission may make such arrangements as are necessary—

- (a) to protect the safety of any such person; or
- (b) to protect any such person from intimidation or harassment.

(2) In this section, a reference to a person who is assisting the Commission shall be a reference to a person who—

- (c) has appeared, is appearing or is to appear before the Commission to give evidence or to produce a document or other thing; or
- (d) has assisted, is assisting or is to assist the Commission in some other manner.

(3) The Commission may direct the Inspector General of Police, a public body, or an officer of such body—

- (a) to provide any protection referred to in subsection (1);
- (b) to provide personnel or facilities or both to assist in providing that protection; or
- (c) to otherwise assist in the provision of that protection.

(4) The Inspector General of Police, a public body, or an officer of such body, shall be under a duty to comply with any direction under this section as far as is reasonably possible.

(5) Any arrangements made under subsection (1) may but need not involve the Commission making orders applying to a specified person; and such order shall not be limited to directions of the kind referred to in subsection (3).

(6) Any person who contravenes an order made under subsection (5) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Responsibility to refer cases of grievous hurt or death ~~in custody~~

~~55.51.~~ 51. The police force shall refer to the Commission any incident which has resulted in grievous hurt or death to any person when or shortly before, such person had direct or indirect contact with a member of the police force.~~under the detention or custody of the police force.~~ custody of the police force as soon as possible.

~~56.65.~~

Police force to provide information

~~57.66.~~ 52. The police force shall cooperate with and assist the Commission, including to provide such information within their control or ability to procure, as ~~may be required by~~ the officer of the Commission in the performance of the functions and the exercise of the powers of the Commission under this Act.

Power to amend Schedules

53. The Prime Minister, may on the advise of the Commission, by order published in the Gazette, amend the Schedules.

~~Power to amend Schedule~~

49. ~~The Prime Minister may by order published in the *Gazette*, amend the Schedule.~~

Regulations

~~58.67.~~ 54. (1) The ~~Prime Minister~~ Commission may, on the advise of the Commission, make regulations for the purpose of carrying out or giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may prescribe—

- (a) the procedure of the handling of complaints;
- (b) the procedure relating to the conduct of proceedings to deal with a misconduct; and
- (c) any other matter required to be prescribed under this Act.

Regulations made under this section may prescribe any act in contravention of the regulations to be made an offence and may prescribe penalties of a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or both for such offence.

PART IX REPEAL, SAVING AND TRANSITIONAL PROVISIONS

Repeal and dissolution

~~59.68.~~ 55. The Enforcement Agency Integrity Commission Act 2009 [*Act 700*] (the “repealed Act”) is repealed and the Enforcement Agency Integrity Commission (the “dissolved Commission”) is dissolved.

Commissioner of dissolved Commission

~~60.69.~~ 56. Notwithstanding anything to contrary, the Commissioners of the dissolved Commission and the members of any committee appointed under the repealed Act who held office before the date of coming into operation of this Act shall cease to hold office on that date.

Transfer of powers, etc.

~~61.70.~~ 57. All powers, rights, duties, liabilities and obligations which immediately before the date of coming into operation of this Act were the powers, rights, duties, liabilities and obligations of the dissolved Commission shall, on the coming into operation of this Act, be devolved on the Commission.

Transfer of moneys in funds of dissolved Commission

~~62.71.~~ 58. All money standing in or due to be paid into the funds of the dissolved Commission established under the repealed Act shall on the coming into operation of this Act be transferred to and be deemed to be part of the funds of the Commission under section ~~43.~~ 39 of this Act.

Vesting of property, etc.

~~63.72.~~ (1) Subject to this Act, the Prime Minister may, from time to time, by order published in the *Gazette*, appoint a vesting date and on such date all properties, rights, interests, obligations and liabilities the dissolved Commission specified by the Prime Minister in the order shall, by virtue of this Act, be transferred to and vested in the Commission without any conveyance, assignment or transfer.

(2) Every property, rights, interest, obligation and liability transferred to and vested in the dissolved Commission shall be transferred to and vested in the Commission for the like title, estate or interest and on the like tenure as the property, rights, interest, obligation and liability were vested or held immediately before the vesting date.

(3) Any land which immediately before the date of coming into operation of this Act were vested in the dissolved Commission shall, on the vesting date, be vested in the Commission for the purposes of the Commission.

(4) Where by virtue of subsection (1), any property is transferred to and vested in the dissolved Commission, the provisions of Part Thirty of the National Land Code 1965 [Act 56 of 1965] shall, for the purpose of effecting the registration of such vesting, apply to the Commission.

(5) Any property and asset other than land which immediately before the date of coming into operation of this Act were vested in the dissolved Commission shall, on the vesting date, be vested in the Commission.

(6) In the case of rights, interests, obligations and liabilities arising under any loan which are vested in the dissolved Commission on the vesting date, the Commission may enter into agreements or arrangements over the rights, interests, obligations and liabilities with any other person.

Existing contracts, etc.

64.73. All deeds, agreements, documents and other instruments subsisting immediately before the date of coming into operation of this Act and affecting any property or money transferred under this Act shall continue to remain in full force and effect, against or in favour of the Commission, and enforceable as fully and effectually as if, instead of the dissolved Commission, the Commission had been named in the deeds, agreements, documents and other instruments and had been a party to the deeds, agreements, documents and other instruments.

Officers and staff of dissolved Commission deemed officers of Commission

65.74. All officers and staff holding an appointment under the repealed Act shall be deemed to be officers of the Commission appointed under this Act and shall hold such title of office as may be determined by the Commission.

Complaint, etc., of misconduct of enforcement agency other than Royal Malaysia Police

66.75. All complaints, investigations, findings and hearing in relation to an enforcement agency as prescribed in the Schedule of the repealed Act other than the Royal Malaysia Police shall, on the date of coming into operation of this Act, be referred to the respective Disciplinary Authority of the enforcement agency.

Continuance of pending complaint, etc., of police misconduct

67.76. The following matters in so far as they relate to the misconduct of members of the Royal Malaysia Police shall, on the coming into operation of this Act, be dealt with under the repealed Act as if the repealed Act had not been repealed, by the Commission and shall be completed within six months from the date of coming into operation of this Act:

- (a) any pending complaints under section 23 of the repealed Act;
- (b) any pending investigations under section 25, subsection 27(4) and section 28 of the repealed Act;
- (c) any pending findings of the Complaints Committee under section 26 of the repealed Act and findings of the Commission under section 30 of the repealed Act; or
- (d) any pending hearing under section 34 of the repealed Act.

Continuance of disciplinary proceedings relating to misconduct pending before Royal Malaysia Police Disciplinary Authority

68.77. All disciplinary proceedings relating to misconduct pending before the Royal Malaysia Police Disciplinary Authority before the date of coming into operation of this Act shall be continued by the Royal Malaysia Police Disciplinary Authority as if this Act had not been passed.

FIRST SCHEDULE

[Subsection 31(3)]

<i>Disciplinary Board</i>		
<i>(1) Category of officer</i>	<i>(2) Jurisdiction</i>	<i>(3) Members of the Disciplinary Authority</i>
All members of the police force	All disciplinary actions with a view to dismissal or reduction in rank	<p>Chairman: A member of the Commission</p> <p>Members: Two members of the Commission</p> <p>Inspector General of Police or one representative from the police force of a higher rank than the accused</p> <p>One representative from the Police Force Commission (who shall not be a member of the police force)</p>
	All disciplinary actions not with a view to dismissal or reduction in rank	<p>Chairman: A member of the Commission</p> <p>Members: Two members of the Commission</p> <p>Inspector General of Police or one representative from the police force of a higher rank than the accused</p> <p>One representative from the Police Force Commission (who shall not be a member of the police force)</p>

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SECOND SCHEDULE

[Subsection 35(1)]

<i>Minor Misconduct Appeal Disciplinary Board</i>		
<i><u>(1)</u></i> <i><u>Category of officer</u></i>	<i><u>(2)</u></i> <i><u>Jurisdiction</u></i>	<i><u>(3)</u></i> <i><u>Members of the Disciplinary Appeal Board</u></i>
<u>All members of the police force</u>	<u>All disciplinary actions with a view to dismissal or reduction in rank</u>	<u>Chairman:</u> <u>Chairman of the Commission</u> <u>Members:</u> <u>A member of the Commission</u> <u>Inspector General of Police or one representative from the police force of a higher rank than the aggrieved member of the police force (who shall not be any member of the police force who made the decision on the disciplinary action against the aggrieved member of the police force)</u>

EXPLANATORY STATEMENT

The Independent Police Complaints of Misconduct Commission Bill 2019 (“the proposed Act”) seeks to provide for the establishment of the Independent Police Complaints of Misconduct Commission (“Commission”). The objects of the proposed Act are to improve the integrity of the police force, to reduce misconduct amongst members of the police force and to promote public confidence in the police force.

PART I

2. Part I of the proposed Act deals with preliminary matters.

Clause 1 contains the short title and commencement of the proposed Act.

Clause 2 contains the definitions of certain terms and expressions used in the proposed Act.

PART II

3. Part II of the proposed Act deals with the establishment, functions and powers of the Commission.

Clause 3 seeks to provide for the establishment of the Commission.

Clauses 4 and *5* deal with the functions and powers of the Commission.

Clause 6 seeks to provide for the members of the Commission.

Clause 7 contains provision on the term of office for the members of the Commission.

Clause 8 provides for the payment of remuneration and allowances to the members of the Commission.

Clause 9 sets out the circumstances in which the office of a members of the Commission become vacant.

Clause 10 contains provision on the meetings of the Commission.

Clause 11 sets out the circumstances under which the Deputy Chairman or other member of the Commission may exercise the functions of the Chairman.

Clause 12 provides that a member of the Commission shall disclose his interest in any matter under discussion by the Commission or in any proceedings before the Commission.

Clause 13 sets out that the functions and powers of the Commission are exercisable by a member of the Commission, any committee or any member of the police force.

PART III

4. Part III of the proposed Act deals with the administration of the Commission.

Clause 14 seeks to empower the Commission to appoint a Secretary who will be the chief executive officer.

Clause 15 sets out the circumstances where the Commission may appoint any officer of the Commission to exercise the function of the Secretary temporarily.

Clause 16 seeks to empower the Commission to appoint any person to be the officers of the Commission.

Clause 17 seeks to empower the Commission to engage consultants to assist the Commission in the performance of its functions and powers.

Clause 18 seeks to allow the Commission to establish committees to assist the Commission.

Clause 19 provides for the issuance of authority cards to the members of the Commission and officers of the Commission.

Clause 20 seeks to allow the Commission to make arrangements with any government department or local or statutory authority for the use of their staff or facilities, and make arrangements with the police force for the assistance of members of the police force to cooperate or assist the Commission in the performance of its functions.

Clause 21 seeks to allow the Commission to work in cooperation with any other investigation and law enforcement agencies, and other persons for the performance of its functions.

PART IV

5. Part IV of the proposed Act consists of the provisions relating to the dealing of complaints by the Commission.

Clause 22 provides that the Commission may receive complaints, or deal with complaints referred to it, on misconduct.

Subclause 22(2) seeks to provide that misconduct shall not include any act regulated under sections 96 and 97 of the Police Act 1967.

Clause 23 provides for the establishment of the Complaints Committee.

Clause 24 sets out the manner to make complaints against any member of the police force.

Clause 25 seeks to provide for the classification of complaints.

PART V

6. Part V of the proposed Act consists of provisions dealing with the powers of the investigation of the Commission and officers of the Commission.

Clause 26 deals with the power of the officer of the Commission to issue a written notice, to order any person to attend before the officer to be examined orally, or to order any person to furnish a statement made on oath for the purpose of the officer's investigation.

Clause 27 deals with the power of the Commission to obtain documents or other things from a person.

Clause 28 requires the officer of the commission to submit his findings to the Complaints Committee. The Complaints Committee thereafter will decide any of the following:

- (a) refer any findings of misconduct to the Disciplinary Board;
- (b) record the findings where the findings disclosed no act of misconduct;
- (c) refer any complaints of misconduct it receives to the Malaysian Anti-Corruption Commission if the offence is under Part IV of the Malaysian Anti-Corruption Act 2009;
- (d) refer to the relevant authority of a criminal nature any findings of misconduct, it receives or referred to it.

The Complaints Committee shall inform the complainant of any of the above action taken.

Clause 29 provides for the establishment a Task Force for the purpose of investigation of misconduct of any member of the police force.

Clause 30 seeks to enable the Commission to commence investigation into a misconduct on its own initiative.

PART VI

7. Part VI deals with the procedure on the conduct of proceedings to deal with a misconduct.

Independent Police Complaints of Misconduct Commission

Clause 31 provides that the Commission shall have disciplinary authority over all members of the police force. The proposed *clause* also seeks to provide for the establishment of the Disciplinary Board. Where the complaint of misconduct is against the Inspector General of Police, the Chief Secretary to the Government shall establish a Special Disciplinary Board.

Clause 32 provides that the Disciplinary Board shall, upon considering the finding under *clause 28* and upon completion of investigation under *clause 30*, commence proceedings to deal with a misconduct.

Clause 33 sets out punishments that may be imposed by the Disciplinary Board.

PART VII

8. Part VII contains of provisions dealing with offences.

Clause 34 makes it an offence for a person who threatens, insult or injures any person giving evidence before the Commission.

Clause 35 deals with the act of contempt against a member of the Commission.

PART VIII

9. Part VIII consist of miscellaneous provisions.

Clause 36 seeks to empowers the Commission to impose a surcharge on any officer in accordance with the Financial Procedure Act 1957.

Clause 37 provides for the sharing of any statistical information between the Commission and the police force, any relevant authority in connection with the functions and powers of the Commission.

Clause 38 provides for the protection of the Commission, members of the Commission and officers of the Commission including any person who is acting under the direction of the Commission or an advocate and solicitors to any action, liability, claim or demand. It also provides that no evidence, document or findings of the Commission shall be admissible in any civil or criminal proceedings whatsoever against the person who gave the evidence.

Clause 39 deals with the provision of moneys to the Commission.

Clause 40 seeks to provide that the Statutory Bodies (Account and Annual Reports) 1980 shall apply to the Commission.

Clause 41 seeks to provide that the Commission is required to submit and table an annual report to the Parliament.

Clause 42 provides for the Public Authorities Protection Act 1948 shall apply to the Commission and its officers.

Clause 43 provides that every member of the Commission and officer of the Commission shall be deemed to be public servants within the meaning of the Penal Code while discharging their duties as such.

Clause 44 prohibits the disclosure of information relating to the affairs of the Commission.

Clause 45 seeks to provide for the institution and conduct of prosecution.

Independent Police Complaints of Misconduct Commission

Clause 46 provides for the protection of persons who assist Commission.

Clause 47 imposes duty on the police force to refer any occurrence of incident to the Commission which has resulted in grievous hurt and death of any person who at the time under the detention or custody of the police force.

Clause 48 seeks to provide responsibility to the police force to cooperate with and assist the Commission, including to provide such information as may be required by the Commission.

Clause 49 seeks to empower the Prime Minister to amend the Schedule.

Clause 50 seeks to empower the Prime Minister to make regulations.

PART IX

10. Part IX consist of repeal, saving and transitional provisions arising from the dissolution of the Enforcement Agency Integrity Commission.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)3185]