

**INDEPENDENT POLICE
COMPLAINTS AND
MISCONDUCT
COMMISSION BILL 2005**

LAWS OF MALAYSIA

Bill No. xxxx

Independent Police Complaints and Misconduct

Commission Bill 2005

Date of Royal Assent :

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A BILL

intituled

An Act to establish the **Independent Police Complaints and Misconduct Commission**, whose principal functions are to receive and investigate into complaints about the Royal Malaysia Police, to detect, investigate and prevent police corruption and other serious police misconduct, to set out the powers and functions of such Commission for improving police integrity, reducing misconduct and building public confidence and to ensure that there is vigilant oversight in Malaysia of the Royal Malaysia Police and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament of Malaysia as follows:

PART I
PRELIMINARY

Short title, application and commencement.

1. (1) This Act may be cited as the **Independent Police Complaints and Misconduct Commission (IPCMC) Bill 2005**.
- (2) This Act applies throughout Malaysia.
- (3) This Act shall come into force on a date to be appointed by the Minister by notification in the **Gazette**.

Interpretation.

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

“advocate and solicitor” means an advocate and solicitor of the High Court in Malaya or the High Court in Sabah and Sarawak admitted and enrolled prior to the coming into operation of this Act under the Legal Profession Act 1976 [Act 166], the Advocates Ordinance (Sabah Cap. 2) and Advocate Ordinance Sarawak 1953 (Sarawak Cap. 110);

“ACA” means the Anti-Corruption Agency established under section 3 of the Anti-Corruption Act 1997 [Act 575];

“ACA Officer” includes the Director General and any officer appointed under subsection 4(1) of the Anti-Corruption Act 1997 [Act 575];

“Anti-Corruption Act” means the Anti-Corruption Act 1997;

“body corporate” refers to companies incorporated under the Companies Act 1960 [Act 125] and any businesses registered under the Registration of Businesses Act 1956 [Act 197]

“Commission or IPCMC” means the Independent Police Complaints and Misconduct Commission constituted by this Act;

“Commissioner or IPCMC Commissioner” means the Chairman, Deputy Chairmen and other Commissioners appointed under section 4 for the Independent Police Complaints and Misconduct Commission, except where expressly stated otherwise in the provisions of the Act;

“Disciplinary Authority” means the authority legally constituted under Clause (2) of Article 132 of the Federal Constitution;

“disciplinary offence” includes any misconduct, irregularity, neglect of duty, breach of discipline or other matter that constitutes or may constitute grounds for disciplinary action under this Act or under any law;

“exercise a function” includes perform a duty;

“facsimile” means facsimile transmission and includes the transmission of a document through the Internet or other electronic means;

“former police officer” means a person who is currently not a police officer but who has been a member of the Force under the Police Act 1967 [Act 344];

“Force” means the Royal Malaysia Police established under the Police Act 1967;

“function” includes a power, authority and duty;

“hearing” means a hearing under this Act;

“investigate” includes examine;

“investigation” means an investigation under this Act and (without limitation) includes a preliminary investigation referred to in section 22.

“Minister” means the Minister or Ministers for the time being charged with the responsibility for the matter or matters in connection with which the reference to the “Minister” is made;

“officer of the Commission” means a Commissioner, or any member of the staff of the Commission;

“Police Act” means the Police Act of 1967;

“police complaint” means any complaint against the Force or any police officers received by the Commission from any source;

“police misconduct” means any act of misconduct as stated in Section 14;

“police officer” means any member of the Force established under the Police Act;

“premises” includes any structure, building, aircraft, vehicle, vessel or place (whether built on or not), or any part thereof;

“public body” includes the Government of Malaysia; the Government of a State; any local authority and any other statutory authority; any department, service or undertaking of the Government of Malaysia, the Government of a State, or a local authority; any company over which any public body as is referred to herein has controlling power; or any society, union, organization or body as the Minister may prescribe from time to time by order published in the **Gazette**;

“public service of Malaysia” means the public services as prescribed in Part X of the Federal Constitution;

“Royal Commission of Police” means the Royal Commission To Enhance The Operation And Management of the Royal Malaysia Police appointed by the Yang di-Pertuan Agong on 4 February 2004;

“search warrant” means a search warrant issued under this Act;

“staff of the Commission” means the persons referred to in section 8 of this Act;

“statutory authority” means any authority, whether consisting of a single person or a body of persons, established by Federal or State law and exercising powers, discharging duties or performing functions conferred upon the authority by any Federal or State law;

“task force” includes a body of persons formed for a purpose provided under this Act.

PART II

Establishment of the Commission

Establishment of the Commission.

3. (1) A commission by the name of "**Independent Police Complaints and Misconduct Commission (IPCMC)**" is hereby established.
- (2) The Commission shall have perpetual succession and a common seal.
- (3) The Commission may sue and be sued in its name.
- (4) Subject to and for the purposes of this Act, the Commission may, upon such terms as it deems fit —
 - (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 therein vested in the Commission.

Constitution of the Commission.

4. (1) The Yang di-Pertuan Agong shall, on the advice of the Prime Minister, appoint not more than seven (7) Commissioners, of whom there shall be a Chairman and two Deputy Chairmen for such period and on such terms and conditions as may be specified in the instrument of appointment.
- (2) A person shall not be appointed as a Commissioner if he holds or has held office as a police officer.
- (3) An appointment in contravention of subsection (2) shall have no effect.

The Chairman, Deputy Chairmen and Commissioners.

5. (1) The Chairman, Deputy Chairmen and the Commissioners of the Commission shall hold office in accordance with the terms of his appointment.
- (2) The provisions of the First Schedule shall apply to the Chairman, Deputy Chairmen and the Commissioners.

PART III

Administration

The Secretary.

6. (1) The Commission shall have a Secretary who shall be the Chief Executive Officer of the Commission.

- (2) Subject to subsections (3) and (4), the Secretary shall be appointed by the Commission with the approval of the Prime Minister.
- (3) The Secretary shall be appointed on such terms and conditions and shall have such functions as the Commission may, with the approval of the Prime Minister, determine.
- (4) The appointment of a person to be the first Secretary of the Commission shall be made by the Prime Minister on such terms and conditions as may be determined by the Prime Minister.

Legal Counsel.

7. (1) The Commission shall appoint a Chief Legal Counsel to assist the Commission in performing its functions under the Act.
- (2) There shall be as many Legal Counsel as may be necessary who shall be seconded from amongst members of the Judicial and Legal Service or appointed from amongst advocates and solicitors to be engaged by the Commission.
- (3) The remuneration, allowance and gratuity payable to the Chief Legal Counsel or a Legal Counsel who is engaged from amongst advocates and solicitors shall be determined by the Commission.

Staff of the Commission.

8. (1) The staff of the Commission shall consist of —
 - (a) members of the public service of Malaysia on temporary secondment to the Commission or who have opted to be permanently employed by the Commission; and
 - (b) such other persons as the Commission may find it necessary to employ to assist the Commission, and who shall be employed on such terms and conditions as appear to the Commission to be appropriate.
- (2) The staff of the Commission shall include such number of investigators as the Commission deems necessary to assist the Commission to discharge its functions effectively and efficiently.

Employment of consultants.

9. The Commission may engage persons, including retired or former police officers, as consultants to the Commission or to perform services for it.

Use of staff, facilities or certain police personnel.

10. (1) The Commission may arrange for the use of the services of—
 - (a) any staff or facilities of a government department or a local or public body or statutory authority; or
 - (b) any police officer, to be involved in the work of task forces with which the Commission is involved or carry out or participate in investigations for or on behalf of or under the direction of the Commission.

- (2) It shall be the duty of the government departments or local or public body or statutory authority or police officer referred to in subsection (1) to cooperate with the Commission.

Delegation by Commission.

11. (1) The Commission may delegate to an officer or officers of the Commission any of its functions, other than this power of delegation.
- (2) An officer of the Commission may sub-delegate to another officer of the Commission any of the functions delegated to him, subject to any condition to which the delegation is subject.

PART IV

Functions and Powers of the Commission

Principal Functions of the Commission.

12. (1) The principal functions of the Commission are:
- (a) to receive complaints made by members of the public against the Force and to inquire into these complaints and in particular to detect, investigate and prevent police corruption and other serious misconduct;
 - (b) to formulate and put in place mechanisms for the detection, investigation and prevention of serious police misconduct and other misconduct;
 - (c) to protect the public interest by preventing and dealing with police misconduct; and
 - (d) to provide for the auditing and monitoring of particular aspects of the operations and procedures of the Police Force.
- (2) In addition to the functions set out in subsection (1), the Commission has the functions conferred or imposed on it by or under the other provisions of this Act or by or under or any other written law.
- (3) The functions of the Commission are exercisable by any Commissioner, except where provided otherwise.
- (4) Any act, matter or thing done in the name of, or on behalf of, the Commission by the Commissioner, or with the authority of the Commissioner, is taken to have been done by the Commission.
- (5) A reference in this Act to a hearing before the Commission or anything done or omitted by, to or in relation to the Commission includes a reference to a hearing before, or a thing done or omitted by, to or in relation to the Commissioner or another officer of the Commission having authority in the circumstances.

Other functions of the Commission.

13. (1) In building its capacity to promote and improve police integrity and to deal with misconduct and in furtherance of the protection and promotion of public interest



in reducing and preventing police corruption and other serious police misconduct, the powers and functions of the Commission shall be —

- (a) to promote awareness of and provide education to raise integrity and fight corruption and other forms of misconduct;
 - (b) to advise and assist the Government in formulating legislation and administrative directives and procedures and recommend the necessary measures to be taken; and
 - (c) as stated in Schedule 2 of this Act.
- (2) For the purpose of performing its functions, the Commission may exercise any or all of the following powers:
- (a) to promote awareness of police integrity and ethics and to undertake research by conducting programmes, seminars and workshops and to disseminate and distribute the results of such research;
 - (b) to advise the Government and/or the relevant authorities of complaints against such authorities and recommend to the Government and/or such authorities appropriate measures to be taken;
 - (c) to study and verify any infringement of police procedures, corruption and misconduct in accordance with the provisions of this Act;
 - (d) to visit police stations and lockups in accordance with procedures as prescribed by the laws relating to the places of detention and to make necessary recommendations; and
 - (e) to undertake any other appropriate activities as are necessary in accordance with the written laws in force, if any, in relation to such activities.
- (3) The visit by the Commission to any place of detention under paragraph (2)(d) shall not be refused by the person in charge of such place of detention if the procedures provided in the laws regulating such places of detention are complied with.

Scope of police misconduct.

14. (1) The scope of police misconduct covered by this Act shall include misconduct by way of action or inaction or alleged action or inaction of a police officer suspected to be involved in but is not limited to —
- (a) police corruption and any corrupt conduct including conduct that constitute the offences of soliciting, accepting, offering and giving gratification or bribes within the meaning of the Anti-Corruption Act;
 - (b) commission of criminal offences;
 - (c) failure to follow rules and procedure laid down by law and by the Inspector General of Police;
 - (d) any other matters about which a complaint can be made under the Police Act.

- (2) The misconduct of a police officer may be investigated by the Commission —
 - (a) whether or not it also involves participants who are not police officers;
 - (b) whether or not it occurs while the police officer is officially on duty;
 - (c) whether it occurs within or outside Malaysia; or
 - (d) whether or not it occurred before the commencement of this Act.
- (3) Misconduct of a police officer may be dealt with, or continue to be dealt with, under this Act even though any police officer 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.
- (4) References in provisions of this Act to "serious police misconduct" and "other misconduct" are intended for general guidance and are not intended to indicate a precise distinction between the two concepts.

Assessments, opinions and action.

15. (1) Where it appears to the Commission that any act or omission of the Force or the conduct of a police officer about which or whom a complaint is made to the Commission falls under any of the categories under Section 16, the Commission may subject to subsections (2) and (3), make that conduct the subject of an investigation under this Act.
- (2) In deciding whether to make that conduct the subject of an investigation, the Commission may have regards —
 - (a) to such matters as it thinks fit, and
 - (b) to whether, in its opinion
 - (i) the complaint is frivolous, vexatious or not in good faith;
 - (ii) the subject matter of the complaint is trivial;
 - (iii) the conduct complained of occurred at too remote a time to justify investigation;
 - (iv) in relation to the conduct complained of there is or was available to the complainant an alternative and satisfactory means of redress; or
 - (v) the complainant has no interest or an insufficient interest in the conduct complained of.
- (3) In deciding whether to initiate or to discontinue an investigation of police misconduct, the Commission shall have regards to the public interest.

Categories of complaints.

16. (1) The categories of conduct complained of may become the subject of an investigation by the Commission if in the opinion of the Commission, such conduct is —

- (a) contrary to law;
 - (b) unreasonable, unjust, oppressive or improperly discriminatory;
 - (c) in accordance with any law or established practice but the law or practice is, or may be, unreasonable, unjust, oppressive or improperly discriminatory;
 - (d) based wholly or partly on improper motives, irrelevant grounds or irrelevant consideration;
 - (e) based wholly or partly on a mistake of law or fact;
 - (f) conduct of which reasons should be given but are not given; or
 - (g) otherwise wrong.
- (2) If the Commission finds after an investigation that the conduct complained of is well founded, the Commission may —
- (a) refer its finding with recommendation to the Disciplinary Authority of the Force if the conduct complained of discloses a disciplinary offence; or
 - (b) refer its finding to its Chief Legal Counsel for the purpose of taking legal proceedings in Court against the police officer involved in the complaints.

Co-operation with other agencies.

17. (1) In exercising its investigative functions, the Commission may work in cooperation with other investigation and law enforcement agencies and any state or federal government departments or other persons and bodies as the Commission thinks appropriate.
- (2) For the purpose of this section, other investigation and law enforcement agencies means:
- (a) the Anti-Corruption Agency,
 - (b) the Auditor-General,
 - (c) the Central Bank of Malaysia,
 - (d) the Securities Commission,
 - (e) any police force outside Malaysia, and
 - (f) any other authority or person responsible for the enforcement of laws, whether federal or state.
- (3) In exercising its other functions, the Commission may work in co-operation with educational institutions and such other persons and bodies as the Commission thinks appropriate.
- (4) The Commission may consult with and disseminate intelligence and information to investigative agencies and such other persons and bodies, including any task force and any member of a task force, as the Commission thinks appropriate.

- (5) If the Commission disseminates information to a person or body under this section on the understanding that the information is confidential, the person or body is subject to the secrecy provisions of section 54 in relation to the information.

Evidence and procedure

18. (1) The Commission is not bound by rules or practice of evidence and can inform itself on any matter in such manner as it considers appropriate.
- (2) The Commission shall exercise its functions with as little formality and technicalities as is possible and in particular, the Commission shall accept written submissions as far as is possible and hearings are to be conducted with as little emphasis on the adversarial approach as is possible.
- (3) Despite any proceedings that may be in or before any court, the Commission may —
- (a) commence, continue, discontinue or complete any investigation;
 - (b) furnish reports in connection with any investigation; and
 - (c) do all such acts and things as are necessary or expedient for those purposes.
- (4) If the proceedings before or in any court are proceedings for a criminal offence, the Commission may to the extent to which the Commission thinks it necessary to do so —
- (a) ensure that the right of the accused person to a fair trial is not prejudiced;
 - (b) ensure that, as far as practicable, any hearing or other matters relating to the investigation are conducted in private during the currency of the proceedings; and
 - (c) defer making a report to Parliament in relation to the investigation during the currency of the proceedings.

Task forces.

19. The Commission may, in connection with its functions —
- (a) arrange for the establishment of task forces;
 - (b) seek the establishment of joint task forces with other authorities;
 - (c) cooperate with other task forces;
 - (d) co-ordinate or co-operate in coordinating any such task forces.

Incidental powers.

20. (1) The Commission has power to do all things necessary to be done for or in connection with, or reasonably incidental to, the exercise of its functions.
- (2) Any specific powers conferred on the Commission by this Act are not taken to limit by implication the generality of this subsection (1).

PART V

Investigation and Search

Investigations generally.

21. (1) The Commission may conduct an investigation on its own initiative, on a police complaint made or referred to it, on a police complaint of which it has become aware, or on a report made to it.
- (2) The Commission may conduct an investigation even though no particular police officer or other person has been implicated and even though no police misconduct is suspected.
- (3) The Commission may, in considering whether or not to conduct, continue or discontinue an investigation, have regard to such matters as it thinks fit, including whether or not, in the Commission's opinion —
- (a) the subject-matter of the investigation is trivial;
 - (b) the conduct or matter concerned occurred at too remote a time to justify investigation; or
 - (c) if the investigation was initiated as a result of a police complaint—the complaint was frivolous, vexatious or not in good faith.

Preliminary investigations.

22. (1) A preliminary investigation may be conducted for the purpose of assisting the Commission to discover or identify conduct that might be made the subject of a more complete investigation under this Act, or to decide whether to make particular conduct the subject of a more complete investigation under this Act.
- (2) Nothing in this section affects any other provision of this Act.

Power to obtain information.

23. (1) For the purposes of an investigation, the Commission may, by notice in writing serve on a body corporate or a public body or statutory authority or any officer of such body or authority, requiring the body corporate or the public body or statutory authority or its officer to produce a statement of information.
- (2) A notice under this section —
- (a) must specify or describe the information concerned;
 - (b) must fix a time and date for compliance; and
 - (c) must specify the person, being one of the Commissioners, or any other officer of the Commission to whom production is to be made.
- (3) The notice may provide that the requirement may be satisfied by some other person acting on behalf of the public body or statutory authority or the officer of such body or authority and may, but need not, specify the person or class of persons who may so act.

(4) Any person *who* —

- (a) without reasonable excuse, fail to comply with a notice served on the person under this section; or
- (b) in purported compliance with a notice served on the person or some other person under this section, furnish information knowing it to be false or misleading in a material particular, 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.

Power to obtain documents or other things.

24. (1) For the purposes of an investigation, the Commission may, by notice in writing served on a person, whether or not a public body or a statutory authority or an officer or employee of such body or authority, require the person —
- (a) to attend, at a time and place specified in the notice before a Commissioner specified in the notice; and
 - (b) to produce at that time and place to the Commissioner so specified a document or other thing specified in the notice.
- (2) The notice may provide that the requirement may be satisfied by some other person acting on behalf of the person on whom it was imposed and may, but need not, specify the person or class of persons who may so act.
- (3) A person must not, without reasonable excuse, refuse or fail to comply with a notice served on him under this section.
- (4) Any person who fails, without reasonable excuse, to comply with a notice served under 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.

Advocates and solicitors to disclose information.

25. (1) Notwithstanding any other written law, an advocate and solicitor shall disclose information available to him in respect of any transaction or dealing relating to any matter or property which is a subject matter of or related to a complaint or investigation under this Act.
- (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.

Legal obligation to give information.

26. (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.

27. (1) This section applies where, under section 23 or 24, 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.

28. (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.

Injunctions.

29. (1) The High Court may, on application made by the Commission, grant an injunction restraining any conduct in which a person, or an officer or employee of a public body or statutory authority, is engaging or in which such a person appears likely to engage, if the conduct is the subject of, or affects the subject of, an investigation or proposed investigation by the Commission.
- (2) The High Court is not to grant an injunction under this section unless it is of the opinion that:
- (a) the conduct sought to be restrained is likely to impede the conduct of the investigation or proposed investigation, or
 - (b) it is necessary to restrain the conduct in order to prevent irreparable harm being done because of serious police misconduct or suspected serious police misconduct.
- (3) The Commission is not to be required, as a condition for the granting of an injunction under this section, to give any undertakings as to damages.

Powers exercisable whether or not hearings being held.

30. Powers may be exercised under Part V in relation to an investigation whether or not a hearing before the Commission is being held for the purposes of the investigation.

PART V

Hearings and Investigative Powers

Hearings.

31. (1) For the purposes of an investigation, the Commission may hold hearings.
- (2) A hearing shall be conducted by a presiding Commissioner with legal qualifications and at least one other Commissioner as assisting Commissioner as determined by the Chairman.
- (3) At each hearing, the presiding Commissioner shall announce the general scope and purpose of the hearing.
- (4) A person appearing before the Commission at a hearing is entitled to be informed of the general scope and purpose of the hearing, unless the presiding Commissioner is of the opinion that this would seriously prejudice the investigation concerned.
- (5) The Chief Legal Officer or a Legal Counsel may assist the Commission at a hearing.

Public and private hearings.

32. (1) A hearing may be held in public or in private, or partly in public and partly in private, as decided by the presiding Commissioner.
- (2) Without limiting the power of the presiding Commissioner in subsection (1), the presiding Commissioner may decide to hear closing submissions in private from a person appearing before the Commission or a legal practitioner representing such a person, as well as to a closing submission by the Chief Legal Counsel or Legal Counsel.
- (3) In making these decisions, the presiding Commissioner is obliged to have regard to any matters that it considers to be related to the public interest.
- (4) The presiding Commissioner may give directions as to the persons who may be present at a hearing when it is being held in private, and no person shall be present at a hearing in contravention of any such direction.

Right of appearance of affected person.

33. 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 authorise the person to appear at the hearing or a specified part of the hearing.

Legal representation.

34. (1) The Commission may, in relation to a hearing, authorise —
- (a) a person giving evidence at the hearing, or

- (b) a person referred to in section 33, to be represented by a legal practitioner at the hearing or a specified part of the hearing.
- (2) The Commission shall give a reasonable opportunity for a person giving evidence at the hearing to be legally represented.
- (3) The Chief Legal Counsel or Legal Counsel appointed by the Commission to assist it may appear before the Commission.

Groups and unincorporated associations.

- 35. (1) Groups and unincorporated associations may be authorised to appear at a hearing or authorised or required to give evidence at a hearing.
- (2) Accordingly, references in sections 33 and 34 to a "person" extend for this purpose to a group or unincorporated association.

Examination and cross-examination of witnesses.

- 36. (1) A person authorised or required to appear at a hearing, or a person's legal practitioner authorised to appear at a hearing, may, with the leave of the Commission, examine or cross-examine any witness on any matter that the Commission considers relevant.
- (2) The Chief Legal Counsel or a Legal Counsel appointed by the Commission to assist it may examine or cross-examine any witness on any matter that the Commission considers relevant.
- (3) Any witness examined or cross-examined under this section has the same protection and is subject to the same liabilities as if examined by a Commissioner.

Power to summon witnesses and take evidence.

- 37. (1) The Commissioner may summon a person to appear before the Commission at a hearing at a time and place named in the summons —
 - (a) to give evidence, or
 - (b) to produce such documents or other things as are referred to in the summons, or both.
- (2) The Commissioner may, at a hearing, take evidence on oath or affirmation in a form approved by the Commission.
- (3) A witness who has been summoned to attend before the Commission must appear and report himself from day to day unless the witness is excused from attendance or until the witness is released from further attendance by the presiding Commissioner at the hearing.
- (4) A person who, without being so excused or released, fails to appear and report himself, is taken to have failed to appear before the Commission in obedience to the summons and is punishable pursuant to section 77.
- (5) A High Court may, on the application of a Commissioner, issue any summons that a Commissioner is authorised to issue under this section to enable the summons to be given the character of a summons by a judicial officer, for the purposes of service out of jurisdiction.

Arrest of witness.

38. (1) If a person served with a summons to appear before the Commission as a witness fails to attend in answer to the summons, the Commissioner may, on proof by statutory declaration of the service of the summons, issue a warrant for the arrest of the witness.
- (2) The Commissioner may issue a warrant for the arrest of a person whose evidence is desired and is necessary and relevant to an investigation, if the Commissioner is satisfied by evidence on oath or affirmation that it is probable that the person is about to or is making preparations to leave his usual place of residence or the country and the person's evidence will not be obtained by the Commission if the person departs.
- (3) The Commissioner is authorised to administer an oath or affirmation for the purposes of subsection (2).
- (4) A warrant may be issued under subsection (2) after the issue of a summons to the person whose evidence is desired, even though the time named in the summons for the person to attend has not yet passed.
- (5) A warrant under this section authorises the arrest of the witness and his being promptly brought before the Commission and detained in a prison or elsewhere for that purpose until released by the order of a Commissioner.
- (6) A warrant issued under this section may be executed by any police officer, or by any person to whom it is addressed, and the person executing it may use such force as is reasonably necessary for the purpose of entering any premises for the purpose of executing it.

Conditional release of witness.

39. (1) The release of a witness by order of a Commissioner under section 38 (5) may be made subject to one or more of the following conditions or to any other conditions—
- (a) that the witness appear and report himself before the Commission in accordance with the terms of the order unless excused from attendance or until released from further attendance by the presiding Commissioner at the relevant hearing of the Commission, and
- (b) conditions for the purpose of ensuring the further attendance of the witness before the Commission either with the provision of sureties by the witness, the surrender of any passport held by the witness, a requirement as to where the witness is to live, and regular reporting by the witness to the Commission.
- (2) The Commissioner may by order, from time to time, amend, revoke or add to those conditions.

Review by the High Court.

40. (1) A witness who has not been released by the Commissioner under section 38(5) or whose release under that section 39 is subject to one or more conditions may apply to the High Court for a review of the decision not to release or failure to release the witness or of the terms of one or more of those conditions.

- (2) The High Court may affirm or set aside a decision by the Commissioner not to release the witness or any condition imposed by the Commissioner on the release of the witness.
- (3) The High Court may also or instead make any order that the Commissioner may make in relation to the detention or release of the witness.
- (4) The High Court may also exercise the powers conferred by subsection (3) where the Commissioner has not made any decision within a reasonable time on the release of the witness.
- (5) An order of the High Court under this section shall be deemed to be an order of the Commissioner.

Privilege as regards answers, documents, etc.

41. (1) A witness summoned to attend or appearing before the Commission at a hearing is not entitled to refuse:
 - (a) to be sworn or to make an affirmation, or
 - (b) to answer any question relevant to an investigation put to the witness by the Commissioner or other person presiding at a hearing, or
 - (c) to produce any document or other thing in the witness's custody or control that the witness is required by the summons or by the person presiding 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 or production may incriminate or tend to incriminate the witness, or on any other ground of privilege, or on the ground of a 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, but may be used in deciding whether to make an order for the purpose of any disciplinary proceedings held by the Force.
- (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; or
 - (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 subsection (2); or
 - (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.

Declaration as to objection by witness.

42. The presiding Commissioner at the hearing may declare that all or any classes of answers given by a witness or that all or any classes of documents or other things produced by a witness will be regarded as having been given or produced on objection by the witness, and there is accordingly no need for the witness to make an objection in respect of each such answer, document or other thing.

Reimbursement of expenses of witnesses.

43. A witness attending or appearing before the Commission is to be paid, out of money provided by Parliament, an amount as the Commission determines.

Attendance of prisoner before Commission.

44. (1) If the Commissioner requires the attendance at a hearing before the Commission of a prisoner, the Commissioner may, by order in writing served on the Director General of Prison in whose custody the prisoner is, direct the Director General of Prison to produce the prisoner, or have the prisoner produced, at the time and place stated in the order.
- (2) Such an order is sufficient authority to the Director General of Prison for producing the prisoner or having the prisoner produced, and the prisoner must be produced accordingly.
- (3) A prisoner is, when produced under this section in the actual custody of the Director General of Prison, a prison officer or a police officer, taken to be in lawful custody.
- (4) The Director General of Prison, prison officer or police officer must in due course return the prisoner to the prison.

PART VII

Disciplinary Powers

45. (1) The Commission, upon finding that a police officer is guilty of any misconduct or have committed any disciplinary offences under this Act, and after weighing the seriousness of the misconduct or disciplinary offence, shall have the power to make the following orders—
- (a) caution and discharge the police officer;
- (b) that the police officer so convicted be deprived of one or more good conduct badges and allowances. Such allowance shall cease from the first day of the month following that in which the order of deprivation is made;
- (c) stop the increment or forfeiture of approved service for increment and such order shall specify the period for which such increment is stopped or such approved service if forfeited, as the case may be. Stoppage of increment shall be for a period of not less than three months;
- (d) reduce the rank of a police officer;

- (e) impose a fine not exceeding the amount of one month's basic pay of the offender;
 - (f) severely reprimand the offender; and
 - (g) transfer the offender to other duties; or
 - (h) dismissal.
- (2) An order of the Commission shall take effect from the date of the order and shall be final and conclusive, and shall not be challenged, appealed against, reviewed, quashed or called in question in any court.
 - (3) The Commission may make such regulations, rules and procedures as it deems necessary, for the conduct of any investigation to be conducted under this Part.

PART VIII

Search Warrant, Protection and Secrecy

Issue of search warrant.

46. (1) The Commissioner, on application made to the Commissioner under subsection (2), may issue a search warrant if the Commissioner thinks fit in the circumstances and if satisfied that there are reasonable grounds for doing so.
- (2) An officer of the Commission may apply to the Commissioner for a search warrant if the person has reasonable grounds for believing that there is in or on any premises a document or other thing connected with any matter that is being investigated under this Act or that such a document or other thing may, within the next 72 hours, be brought into or onto the premises.

Authority conferred by search warrant.

47. (1) A search warrant authorises a police officer, or any other person, named in the warrant:
 - (a) to enter the premises specified in the warrant;
 - (b) to search the premises for documents or other things connected with any matter that is being investigated under this Act; and
 - (c) to seize any such documents or other things found in or on the premises and deliver them to the Commission.
- (2) If in the course of searching, in accordance with the terms of a search warrant, for documents or other things:
 - (a) the person executing the warrant finds a document or other thing that the person believes on reasonable grounds to be evidence that would be admissible in the prosecution of a person for an offence against the law of Malaysia; and
 - (b) the first-mentioned person believes on reasonable grounds that it is necessary to seize the document or other thing in order to prevent its

concealment, loss, mutilation or destruction, or its use in committing such an offence,

the person may seize the document or other thing, and if it is so seized, it is taken for the purposes of this Act to have been seized pursuant to the warrant.

(3) If a document or other thing is seized pursuant to a search warrant—

(a) the Commission may retain the document or other thing if, and for so long as, its retention by the Commission is reasonably necessary for the purposes of an investigation to which it is relevant, and

(b) if the retention of the document or other thing by the Commission is not, or ceases to be, reasonably necessary for such purposes, the Commission may cause it to be delivered to:

(i) the person from whom the document or thing is taken from; or

(ii) the Director of Public Prosecutions, with a recommendation as to what action should be taken in relation to the document or other thing.

(4) A police officer, or a senior Commission investigator, named in and executing a search warrant may search a person found in or on the premises whom the police officer or senior Commission investigator reasonably suspects of having a document or other thing mentioned in the warrant.

(5) In this section:

“senior Commission investigator” means an officer of the Commission who is designated by the Commissioner as a senior investigator and who is issued by the Commissioner with means of identification as such a senior Commission investigator.

Obstruction of person executing search warrant.

48. A person must not, without reasonable excuse, obstruct or hinder a person executing a search warrant.

Power to intercept communications.

49. (1) Notwithstanding the provisions of any other written law, the Commissioner, if he considers that it is likely to contain any information which is relevant for the purpose of any investigation into an offence under this Act, may, authorise any officer of the Commission—

(a) to intercept, detain and open any postal article in the course of transmission by post;

(b) to intercept any message transmitted or received by any method or form of communications; or

(c) to intercept or listen to any conversation by any method or form of communications.

(2) When any person is charged with an offence under this Act, any information obtained by an officer of the Commission in pursuance of subsection (1),

whether before or after such person is charged, shall be admissible at his trial in evidence.

- (3) An authorisation by the Commissioner under subsection (1) may be given either orally or in writing but if any oral authorisation is given, the Commissioner shall, as soon as practicable, reduce the authorisation into writing.
- (4) A certificate by the Commissioner stating that the action taken by an officer of the Commission in pursuance of subsection (1) had been authorised by him under that subsection shall be conclusive evidence that it had been so authorised, and such certificate shall be admissible in evidence without proof of signature thereof.
- (5) No person shall be under any duty, obligation or liability, or be in any manner compelled, to disclose in any proceedings the procedure, method, manner or means, or any matter related thereto, of anything done under subsection (1) (a), (b) or (c).
- (6) For the purpose of this section —

“postal article” had the same meaning as in the Postal Services Act 1991 [Act 465]

“communications” means any communication, whether between persons and persons, things and things, or persons and things, in the form of sound, data, text, visual images, signals or any other form or any combination of those forms

“intercept” means the aural or other acquisition of the contents of any communications through the use of any electronic, mechanical, or other equipment, device or apparatus.

Protection of witnesses and persons assisting Commission.

50. (1) If it appears to the Commissioner that, because a person is assisting the Commission, the safety of the person or any other person may be prejudiced or the person or any other person may be subject to intimidation or harassment, the Commissioner 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 is a reference to a person who —
- (a) has appeared, is appearing or is to appear before the Commission to give evidence or to produce a document or other thing;
 - (b) has produced or proposes to produce a document or other thing to the Commission under this Act; or
 - (c) has assisted, is assisting or is to assist the Commission in some other manner.
- (3) Any such arrangements may (but need not) involve the Commissioner directing the Inspector General of Police or a prescribed public body or statutory authority or an officer of such a body or authority —

- (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, or such a public body or statutory authority or an officer of such a body or authority, is under a duty to comply with any such direction as far as reasonably possible.
- (5) Any such arrangements may (but need not) involve the Commissioner making orders applying to a specified person for the purpose of protecting the safety of a person referred to in subsection (1) or of protecting such a person from intimidation or harassment; and such an order is not limited to directions of a kind referred to in subsection (3).
- (6) Any person who contravenes an order applying to the person under subsection (5) without reasonable excuse 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.

Restriction on publication of evidence.

51. (1) The Commission may direct that —

- (a) any evidence given before the Commission;
 - (b) the contents of any document, or a description of any thing, produced to the Commission, or seized under a search warrant issued under this Act;
 - (c) any information that might enable a person who has given or may be about to give evidence before the Commission to be identified or located;
or
 - (d) the fact that any person has given or may be about to give evidence before the Commission, must not be published except in such manner, and to such persons, as the Commission specifies.
- (2) The Commission is not to give a direction under this section unless satisfied that the direction is necessary or desirable in the public interest.
- (3) Any person who makes a publication in contravention of a direction given under this section 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.

Publication of evidence given at private hearing.

52. (1) A person who was present at a hearing of the Commission held in private must not publish, or permit or allow to be published, any evidence given before the Commission at the hearing or any of the contents of a document produced at the hearing, except to an officer of the Commission or as permitted by the Commission or by the regulations made under this Act.
- (2) Nothing in this section affects section 51, but a person cannot be punished under both sections for the same publication.
- (3) This section does not apply to an officer of the Commission.

Disclosures prejudicing investigations.

53. (1) A person who is required:

(a) by a notice under section 23 or 24 to produce a document or other thing;
or

(b) by a summons under section 38 to give evidence or to produce a document or other thing, must not disclose any information about the notice or summons that is likely to prejudice the investigation to which it relates.

(2) Subsection (1) does not apply to a notice or summons unless it specifies that information about the notice or summons must not be disclosed.

(3) A person does not contravene this section if:

(a) the disclosure is made to an employee, agent or other person in order to obtain information to comply with the notice or summons and the employee, agent or other person is directed not to inform the person to whom the information relates about the matter;

(b) the disclosure is made to obtain legal advice or representation in relation to the notice of summons;

(c) the disclosure is made for the purposes of, or in the course of, legal proceedings; or

(d) the disclosure is made in accordance with guidelines issued by the Commission or in accordance with the regulations.

(4) A reference in this section to the disclosure of any information about a notice or summons includes a reference to —

(a) a disclosure about the existence or nature of the notice or summons or of the investigation to which it relates; and

(b) a disclosure of any information to a person from which the person could reasonably be expected to infer the existence or nature of the notice or summons or of the investigation to which it relates.

Immunity and undertaking.

54. (1) The Commission may recommend to the Public Prosecutor that a person be granted immunity from prosecution.

(2) The Commission may recommend to the Public Prosecutor that a person be given an undertaking that:

(a) an answer, statement or disclosure in proceedings before the Commission;
or

(b) the fact of a disclosure or production of a document in proceedings before the Commission,

will not be used in evidence against the person.

(3) A reference in this section to proceedings before the Commission includes a reference to a hearing before the Commission or any other investigative activity involving the Commission or an officer of the Commission.

Secrecy.

55. (1) Except for any of the purposes of this Act or for the purpose of any civil or criminal proceedings under any written law, the persons stated in subsection (3) shall not disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (3) This section applies to:
- (a) a person who is or was an officer of the Commission;
 - (b) a person who is or was an advocate and solicitor appointed to assist the Commission or who is or was a person who assists, or performs services for or on behalf of, such an advocate and solicitor in the exercise of the advocate and solicitor's functions as counsel to the Commission, and
 - (c) a person or body referred to in sections 5 to 10 and section 17
- (4) A person to whom this section applies cannot be required:
- (a) to produce in any court any document or other thing that has come into the person's possession, custody or control by reason of, or in the course of, the exercise of the person's functions under this Act; or
 - (b) to divulge or communicate to any court any matter or thing that has come to the person's notice in the exercise of the person's functions under this Act,
- except for the purposes of any disciplinary proceedings under any law made pursuant to Article 132 of the Federal Constitution and section 96 of the Police Act.
- (5) Despite this section, a person to whom this section applies may divulge any such information:
- (a) for the purposes of and in accordance with this Act;
 - (b) for the purposes of:
 - (i) a prosecution;
 - (ii) disciplinary proceedings; or arising out of an investigation conducted by the Commission in the exercise of its functions;
 - (c) in accordance with a direction of a Commissioner or Secretary of the Commission, if the Commissioner or Secretary of the Commission certifies that it is necessary to do so in the public interest; or
 - (d) to any prescribed authority or person as directed by a Commissioner or Secretary of the Commission.
- (6) An authority or person to whom information is divulged under subsection (5), and any person or employee under the control of that authority or person, is subject to the same rights, privileges, obligations and liabilities under subsections

(1), (2) and (3) in respect of that information as if he were a person to whom this section applies and had acquired the information in the exercise of functions under this Act.

(7) In this section:

"court" includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

"produce" includes permit access to.

Secrecy provisions in other Acts.

56. All provisions relating to secrecy in any Acts of Parliament shall not apply to the divulging of information or the production of any document or other thing, pursuant to a requirement made by or under this Act.

PART IX

Provisions relating to Inspector General of Police

Decision of Commission to investigate complaint.

57. (1) The Commission may decide to investigate into any complaints or to take over investigation of any complaint from the Inspector General of Police.
- (2) The Commission may direct the Inspector General of Police to investigate or continue to investigate in complaints relating to lack of action taken by the police.

Termination of police investigations.

58. (1) If the Inspector General of Police is directed under section 57 not to investigate a complaint :
- (a) the Inspector General of Police must not commence any such investigation or, if such an investigation has already commenced, must discontinue the investigation;
 - (b) the Inspector General of Police must take all reasonable steps to ensure that any such investigation is not conducted by a police officer; and
 - (c) the direction not to investigate absolves the Inspector General of Police and other police officers from any duty with respect to crime and the preservation of the peace so far as it relates to that investigation or to the bringing of an offender concerned before the courts to be dealt with according to law.
- (2) Subsection (1) does not prevent an investigation relating to an alleged offence that is conducted in accordance with arrangements made between the Commission and the Inspector General of Police.
- (3) Despite anything to the contrary in this Part, an investigation by the Inspector General of Police may be commenced or resumed if the Commission notifies the Inspector General of Police that it has completed its investigation into the complaint or that it has decided to discontinue the investigation.

Commission not required to disclose

59. Nothing in this Part is to be construed as requiring the Commission to disclose any matter to the Inspector General of Police.

Referral of matter to Inspector General of Police

60. (1) The Commission may, before or after investigating a matter (whether or not the investigation is completed), refer the matter for investigation or action to the Inspector General of Police.
- (2) The Commission may, when referring a matter, recommend what action should be taken by the Force and the time within which it should be taken.
- (3) The Commission may communicate to the Inspector General of Police information that the Commission has obtained during the investigation of conduct connected with the matter.

Report to Commission

61. (1) The Commission may, when referring a matter under section 60 or when investigating into any complaints, require the Inspector General of Police or such other police officer or police officers or such unit or other part of the Force to submit to the Commission, within such time as the Commission directs, a report or reports and the investigation papers in relation to the matter or complaint and the action taken by the Force.
- (2) A report must be of such a nature as the Commission directs.

Further action by the Commission

62. (1) If the Commission is not satisfied that the Force has duly and properly taken action in connection with a matter referred under sections 57, 58 and 59, the Commission must inform the Inspector General of Police of the grounds of the Commission's dissatisfaction and must give the Inspector General of Police an opportunity to comment within a specified time.
- (2) If, after considering any comments received from the Inspector General of Police within the specified time, the Commission is still not satisfied, the Commission may submit a report to the Minister setting out the recommendation concerned and the grounds of dissatisfaction, together with any comments from the Inspector General of Police and the Commission.
- (3) If, after considering any comments received from the Minister within 28 days after the report was submitted to that Minister under subsection (2), the Commission is still of the opinion that the recommendation should be adopted, the Commission may make a report to Parliament.

Responsibility of the Force

63. It is the duty of the Force to comply with any requirement or direction of the Commission under the provisions of this Act.

Revocation of referral, recommendation, etc.

64. (1) The Commission may revoke a referral made under section 60.
- (2) The Commission may revoke or vary a recommendation, requirement or direction of the Commission under 57,58 & 59.
- (3) The Commission may vary any time within which a requirement under sections 57, 58 & 59 is to be complied with.

PART X

Provisions relating to Relevant Authority, Public Prosecutor, Anti-Corruption Agency and Auditor-General

Referral of matter to the Relevant Authority.

65. (1) The Commission may, before or after investigating a matter (whether or not the investigation is completed), refer the matter for investigation or action to any authority or a government or semi-government agency (referred to in this section as the "relevant authority") considered by the Commission to be appropriate in the circumstances.
- (2) The Commission may, when referring a matter, recommend what action should be taken by the relevant authority and the time within which it should be taken.
- (3) The Commission may communicate to the relevant authority any information that the Commission has obtained during the investigation of conduct connected with the matter.
- (4) If the Commission communicates information to a relevant authority under this section, the relevant authority is subject to the secrecy provisions of section 55 in relation to the information.
- (5) The Commission may revoke a referral under this section.

Referral of matter to the Public Prosecutor.

66. (1) The Commission may, before or after investigating a matter (whether or not the investigation is completed) refer a matter to the Public Prosecutor for action under the Anti-Money Laundering Act [Act] or any other written law relating to confiscation or recovery of proceeds of crime.
- (2) The Commission may enter into arrangements with the Public Prosecutor regarding the class or kind of matters that might appropriately be dealt with by the respective parties to the arrangements.
- (3) An arrangement does not prevent any of the parties to it from exercising any of their functions.

Report to Commission.

67. The Commission may, when referring a matter under section 65 and 66, request the relevant authority or the Public Prosecutor to submit to the Commission a report or reports in relation to the matter and the action taken by the relevant authority or the Public Prosecutor.

Further action by Commission

68. (1) If the Commission is not satisfied that the relevant authority or the Public Prosecutor has duly and properly taken action in connection with a matter referred under section 65 & 66, the Commission must inform the relevant authority or the Public Prosecutor of the grounds of the Commission's dissatisfaction and must give the relevant authority or the Public Prosecutor an opportunity to comment within a specified time.
- (2) If, after considering any comments received from the relevant authority or the Public Prosecutor within the specified time, the Commission is still not satisfied, the Commission may submit a report to the Minister responsible for the relevant authority or, in the case of the Public Prosecutor, the Prime Minister, setting out the recommendation concerned and the grounds of dissatisfaction, together with any comments from the relevant authority or the Public Prosecutor and the Commission.
- (3) If, after considering any comments received from the Minister for the relevant authority or the Prime Minister within 28 days after the report was submitted to that Minister for the relevant authority or the Prime Minister under subsection (2), the Commission is still of the opinion that the recommendation should be adopted, the Commission may make a report to Parliament.

Role of relevant authority and the Public Prosecutor.

69. The relevant authority or the Public Prosecutor may deal with a matter referred to under section 65 & 66, in such manner as may be appropriate, having regard to and subject to any statutory requirements applicable.

Arrangements between the Commission and ACA.

70. (1) The Commission and the ACA Director General may enter into arrangements regarding —
- (a) matters about which the ACA will notify the Commission where the ACA suspects police misconduct may exist; and
 - (b) matters about which the Commission will notify the ACA where the Commission suspects corrupt conduct as defined in the Anti- Corruption Act may exist;
 - (c) matters that the ACA will investigate or otherwise deal with where conduct involves both police officers and other officers or employees of a public body or statutory authority; and
 - (d) matters that the Commission will investigate or otherwise deal with where conduct involves both police officers and other officers or employees of a public body or statutory authority.
- (2) The Commission and the ACA are empowered and required to exercise their functions in conformity with any relevant arrangements entered into under this section.

Other roles of ACA not affected.

71. Nothing in this Act prevents the ACA from exercising its educative and advisory roles and all its functions in the Anti-Corruption Act even though they may involve police officers.

Relationship with Auditor-General.

72. The Commissioner may enter into arrangements with the Auditor-General regarding the identity and qualifications (including security clearance) of the persons who will audit the books and accounts of the Commission or exercise any other functions of the Auditor-General in relation to the Commission.

PART XI

Reports by the Commission

Reports on investigations.

73. (1) The Commission may prepare reports in relation to any matter that has been or is the subject of an investigation.
- (2) The Commission shall prepare reports in relation to matters as to which the Commission has conducted a public hearing.
- (3) The Commission shall furnish reports prepared under this section to Parliament as soon as possible after the Commission has concluded its involvement in the matter.
- (4) The Commission may defer making a report under this section if it is satisfied that it is desirable to do so in the public interest.

Content of reports to Parliament.

74. (1) The Commission is authorized to include in a report under section 73:
- (a) statements as to any of its assessments, opinions and recommendations; and
- (b) statements as to the Commission's reasons for any of its assessments, opinions and recommendations.
- (2) The report must include, in respect of each "affected" person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:
- (a) the prosecution of a person for a specified criminal offence;
- (b) the taking of action against the person for a specified disciplinary offence;
- (c) the taking of action against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer;
- (d) the taking of reviewable action against the person as a police officer.

- (3) Subsection (2) does not limit the kind of statement that a report can contain concerning any such "affected" person and does not prevent a report from containing a statement described in that subsection in respect of any other person.
- (4) In this section, an "affected" person is a person against whom, in the Commission's opinion, substantial allegations have been made in the course of or in connection with the investigation concerned.

Special reports.

75. The Commission may, at any time, make a special report to Parliament on any administrative or general policy matter relating to the functions of the Commission.

Annual reports.

76. (1) The Commission shall prepare a report in a particular calendar year within a period of seven (7) months after the year ended on 31 December.
- (2) The Commission shall submit a report to the Yang di-Pertuan Agong who shall cause it to be laid before Parliament at its next meeting.
 - (3) The Commission shall, before submitting the report to the Yang di-Pertuan Agong, submit a copy thereof to the Prime Minister
 - (4) A report by the Commission under this section must include the following —
 - (a) a description of the types of matters that were referred to the Commission;
 - (b) a description of the types of matters investigated by the Commission;
 - (c) an evaluation of the response of the Inspector General of Police, police officers, other relevant authorities and the Public Prosecutor to the findings and recommendations of the Commission;
 - (d) any recommendations for changes in the laws of the country, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions;
 - (e) the general nature and extent of any information furnished under this Act by the Commission during the year to a law enforcement agency;
 - (f) the extent to which its investigations have resulted in prosecutions or disciplinary actions;
 - (g) the number of search warrants issued by the Commissioner or the Secretary of the Commission respectively under this Act in that year;
 - (h) a description of its activities during that year in relation to its educating and advising functions.

Reports relating to authorities.

77. (1) The Commission may furnish to Parliament a report setting out a recommendation referred to in sections 62 and 68 which it is of the opinion should be adopted and the reasons for its opinion.

- (2) Such a report must not be furnished until after the period of 28 days referred to in subsection 62 (3) and subsection 68(3) has passed.

Provisions relating to reports.

77. (1) A copy of a report furnished to Parliament under this Part shall to be laid before Parliament at its next meeting.
- (2) In the case of a report of the Commission, the Commission may include in it a recommendation that the report be made public.
- (3) If a report includes a recommendation that the report be made public, Parliament may make it public whether or not Parliament is in session and whether or not the report has been laid before Parliament.
- (4) If such a report is made public by Parliament before it is laid before Parliament, it attracts the same privileges and immunities as if it had been laid before Parliament.
- (5) Parliament need not inquire whether all or any conditions precedent have been satisfied as regards a report purporting to have been made and furnished in accordance with this Act.
- (6) Notwithstanding the provisions of this section and sections 75 and 76, the Commission may at any time submit a report to the Yang di-Pertuan Agong upon any matters arising out of the performance of any of its duties or the exercise of any of its powers under this Act or under any written law, and shall also submit a copy of any such report to the Prime Minister.

PART XI

Offences

Obstruction of Commission

79. Any person who —
 - (a) without reasonable excuse, wilfully obstructs, hinders, resists or threatens the Commission or an officer of the Commission, in the exercise of the functions under this Act;
 - (b) without reasonable excuse, refuses or wilfully fails to comply with any lawful requirement of the Commission or an officer of the Commission, under this Act;
 - (c) wilfully makes any false statement to or misleads, or attempt to mislead, the Commission or an officer of the Commission, in the exercise of the functions under this Act; or
 - (d) disrupts a hearing before the Commission, commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

Public and private hearings.

80. A person who is present at a hearing in contravention of section 32 (4) commits an offence and is liable upon conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

Failure to attend, etc.

81. (1) A person summoned to attend, or appearing before the Commission at a hearing must not, without reasonable excuse, fail:
- (a) to attend before the Commission in accordance with the summons;
 - (b) to be sworn or to make an affirmation;
 - (c) to answer any question relevant to an investigation put to the person by the Commissioner or other person presiding at the hearing; or
 - (d) to produce any document or other thing in the person's custody or control that the person is required by the summons or by the presiding Commissioner to produce.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (3) It is a defence to a prosecution for failing without reasonable excuse to produce a document or other thing if the defendant establishes that the document or other thing is not relevant to an investigation.
- (4) Any person who without reasonable excuse fails to comply with a condition to which the release of the person under section 39 is made commits an offence and on conviction is liable to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

False or misleading evidence.

82. Any person who, at a hearing before the Commission, gives evidence that is, to the knowledge of the person, false or misleading in a material particular commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

Offences relating to documents or other things.

83. (1) Any person who, knowing that any document or other thing is or may be required in connection with an investigation, wilfully destroys it or renders it incapable of identification or, in the case of a document, renders it illegible, indecipherable or unusable, with intent to prevent it from being used in connection with the investigation, commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (2) Any person who, with intent to delay or obstruct the carrying out by the Commission of any investigation:

- (a) destroys or alters any document or other thing relating to the subject-matter of the investigation; or
 - (b) sends or attempts to send, or conspires with any other person to send, out of Malaysia any such document or other thing, or any property of any description belonging to or in the disposition of or under the control of any person whose affairs are the subject-matter of the investigation, commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (3) Any person who, with intent to delay or obstruct the carrying out by the Commission of any investigation, or with intent to mislead the Commission, fabricates any document or other thing commits an offence, if the document or other thing is produced in evidence to the Commission or is produced in purported compliance with a requirement under section 23 or 24 and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (4) If in any prosecution for an offence under subsection (2) it is proved that the person charged with the offence has destroyed or altered any document or other thing, or has sent or attempted to send, or conspired to send, out of Malaysia any such document or other thing, the onus of proving that in so doing the person had not acted in contravention of this section is on the person.

Procuring false testimony by witness.

84. A person who procures or causes or attempts or conspires to procure or cause:

- (a) the giving of false testimony at a hearing before the Commission; or
- (b) in purported compliance with a notice served on any person under section 23, the furnishing of information that is, to the knowledge of the person so served, false or misleading in a material particular. commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both

Bribery of witness.

85. A person who —

- (a) gives, confers or procures, or promises to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, on or for any person, on any agreement or understanding that any person called or to be called as a witness before the Commission will give false testimony or withhold true testimony;
- (b) attempts by any means to induce a person called or to be called before the Commission to give false testimony or to withhold true testimony; or
- (c) asks, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or herself, or for any other person, on any agreement or understanding that any person will as a witness before the Commission give false testimony or commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

Fraud on witness.

86. A person who practices any fraud or deceit on, or knowingly makes or exhibits any false statement, representation or writing to, any person-
- (a) called or to be called as a witness before the Commission with intent to affect the testimony of that person as a witness; or
 - (b) required to comply with a notice under section 23 or 24 with intent to affect that person's compliance with the notice, commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

Preventing witness from attending and threats to witnesses.

87. (1) Any person who —
- (a) wilfully prevents or wilfully endeavours to prevent any person who has been summoned to attend as a witness before the Commission from attending as a witness or from producing anything in evidence pursuant to a summons to attend; or
 - (b) threatens to do or cause, or does or causes, any injury or detriment to any person intending to influence a person summoned as a witness before the Commission to give false testimony or to withhold true testimony or to not attend as a witness or not produce anything in evidence pursuant to a summons to attend, commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (2) Any person who —
- (a) wilfully prevents or wilfully endeavours to prevent any person from complying with a requirement under section 23 or 24; or
 - (b) threatens to do or cause, or does or causes, any injury or detriment to any person intending to influence a person to not comply with a requirement under section 23 or 24, commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (3) A reference in subsection (1) to a person who has been summoned to attend as a witness before the Commission includes a reference to a person who is in detention under a warrant under section 38 (5) or who, having been released under that subsection on condition that the person appear and report himself or herself before the Commission, is still subject to that condition.

Injury to witness or person assisting Commission.

88. (1) Any person who uses, causes, inflicts or procures any violence, punishment, damage, loss or disadvantage to any person for or on account of —
- (a) his assisting the Commission; or
 - (b) any evidence given by him before the Commission, commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.

- (2) In this section, a reference to a person assisting the Commission is a reference to a person who:
- (a) has appeared, is appearing or is to appear as a witness before the Commission; or
 - (b) has complied with or proposes to comply with a requirement under section 23 or 24; or
 - (c) has assisted, is assisting or is to assist the Commission in some other manner.

Dismissal of witness, or person assisting Commission, by employer.

89. (1) An employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of the employee assisting the Commission commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (2) In this section, a reference to a person assisting the Commission is a reference to a person who:
- (a) has appeared, is appearing or is to appear as a witness before the Commission; or
 - (b) has complied with or proposes to comply with a requirement under section 23 or 2; or
 - (c) has assisted, is assisting or is to assist the Commission in some other manner.
- (3) In any proceedings for an offence against this section, the onus lies on the employer to prove that any employee shown to have been dismissed or prejudiced in his employment was so dismissed or prejudiced for some reason other than the reasons mentioned in subsection (1).

Impersonation of officer of Commission.

90. (1) Any person who directly or indirectly represents that he is an officer of the Commission when that person is not such an officer commits an offence and is liable on conviction to a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both.
- (2) For the purposes of subsection (1), a person represents that he is an officer of the Commission if the person does or says anything, or causes, permits or suffers anything to be done or said, whereby it is represented, or whereby a belief may be induced, that he is an officer of the Commission.

Bribery of officer of Commission.

91. (1) Any officer of the Commission who corruptly asks for, receives or obtains, or agrees to receive or obtain, any money, property or benefit of any kind for himself, or for another person —

- (a) to forgo or neglect his or her duty, or influence him or her, in the exercise of his or her functions as an officer of the Commission; or
- (b) on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him or her in the exercise of those functions; or
- (c) to use, or take advantage of, his or her position as an officer of the Commission in order improperly to gain a benefit or advantage for, or facilitate the commission of an offence by, another person.

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

- (2) Any person who corruptly gives to, confers upon, or procures for, or promises or offers to give to, confer upon, or procure for, or attempts to procure for, an officer of the Commission, or for any other person, any money, property or benefit of any kind —

- (a) for the person who has those functions to forgo or neglect his or her duty, or to influence him or her in the exercise of his or her functions as an officer of the Commission;
- (b) on account of anything already done, or omitted to be done, by him or her in the exercise of those functions; or
- (c) for the officer of the Commission to use or take advantage of his or her position as such an officer in order improperly to gain a benefit or advantage for, or facilitate the commission of an offence by, the person first referred to in this subsection.

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

Contempt

92. (1) Any person who —

- (a) having been served with a summons to attend before the Commission as a witness, fails to attend in obedience to the summons;
- (b) having been released under section 38 (5) on condition (under section 39 (1) (a)) that the person appear and report himself before the Commission, fails so to appear and report;
- (c) having been served with a summons to attend before the Commission, fails to produce any document or other thing in the person's custody or control that the person is required by the summons to produce;
- (d) being called or examined as a witness before the Commission, refuses to be sworn or to make an affirmation or refuses or otherwise fails to answer any question put to the person by the Commissioner or any person having the authority to question at the hearing;
- (e) wilfully threatens or insults:

- (i) the Commissioner or another officer of the Commission;
 - (ii) an advocate and solicitor appointed to assist the Commission as counsel;
 - (iii) any witness or person summoned to attend before the Commission;
or
 - (iv) an advocate and solicitor or other person authorized to appear before the Commission;
- (f) misbehaves himself before the Commission;
 - (g) interrupts the proceedings of the Commission;
 - (h) obstructs or attempts to obstruct the Commission, the Commissioner or a person acting with the authority of the Commission or the Commissioner in the exercise of any lawful function;
 - (i) does any other thing that, if the Commission were a court of law having power to commit for contempt, would be contempt of that court;
 - (j) publishes, or permits or allows to be published, any evidence given before the Commission or any of the contents of a document produced at a hearing which the Commission has ordered not to be published; or
 - (k) publishes, or permits or allows to be published, any evidence given before the Commission at a hearing held in private or any of the contents of a document produced at a hearing held in private, except to an officer of the Commission or as permitted by the Commission or by the regulations,

commits an act of contempt.

- (2) Paragraph (1) (k) does not apply to an officer of the Commission.

Punishment of contempt.

- 93. (1) Any person who commits an act of contempt as defined in section 92 against the Commissioners or any of them or the officer of the Commission commits an offence and is liable on conviction to a fine not exceeding two thousand ringgit or imprisonment for a term not exceeding three months or to both.

Manner of dealing with contempt.

- 94. (1) Where an act of contempt is committed in the presence of the Commissioners sitting in Commission, the Commissioners may, after hearing the offender in his defence, pass sentence upon him forthwith in accordance with section 93.
- (2) In any other case the Commissioners may summon the offender to appear before them at a time and place to be specified in the summons, there to show cause why he should not be judged to have committed an act of contempt and be dealt with in accordance with section 93.
- (3) If any person who has been summoned in accordance with subsection (2) fails to attend at the time and place specified in the summons, the Commissioners may issue a warrant to compel the attendance of such person.

PART XIII

General and Transitional Provisions

Functions of Commission where the employee of a public body or statutory authority is involved.

95. (1) The Commission cannot investigate or otherwise deal with a matter involving the conduct of an employee of a public body or statutory authority if the matter does not also involve the conduct of police officers.
- (2) The Commission may investigate and otherwise deal with a matter involving the conduct of an employee of a public body or statutory authority, provided this is done in the context of matters that also involve police officers.

Complaints by officers or employees of a public body or statutory authority.

96. (1) An officer or employee of a public body or statutory authority may complain to the Commission (orally or in writing) about the conduct of a police officer.
- (2) In this section:
“conduct” includes conduct by way of action or inaction or alleged action or inaction.

Protection from liability.

97. (1) A matter or thing done or omitted to be done by the Commission, the Commissioner, or any person acting under the direction of the Commission, or Commissioner does not, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject the Commissioner, or a person so acting personally to any action, liability, claim or demand.
- (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 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 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 statement of information or produces any document or other thing under section 23 or 24, no civil liability attaches to the person for doing so, whether that liability would arise under a contract or otherwise.

Service of documents.

98. For the purposes of this Act, service of a document on a person may be effected:
 - (a) on a natural person:
 - (i) by delivering it to the person personally; or

- (ii) by leaving it at, or by sending it by pre-paid post to, the residential or business address of the person last known to the person serving the document; or
- (b) on a body corporate — by leaving it at, or by sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate, or in any other way in which service could have been effected had this section not been enacted.

Penalties for offences committed by corporations.

99. Where a body corporate convicted of an offence against this Act or the regulations is (except in so far as other provision is made by section 99) the body corporate is liable to the maximum penalty of double the pecuniary penalty otherwise applying to the offence.

Proceedings for offences.

100. (1) Notwithstanding the provisions in Chapter XXXVII of the Criminal Procedure Code, the Commission shall have the power to institute, conduct or discontinue any proceedings for an offence commenced by it.
- (2) Except where otherwise expressly provided by this Act, proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Court of appropriate jurisdiction.

Exercise of functions by Police Officers.

101. (1) A police officer may not exercise investigative, surveillance or enforcement functions under or for the purposes of this Act unless expressly authorized to do so by the Commission.

Regulations.

102. (1) The Commission may, with the approval of the Prime Minister, make such regulations as may be expedient or necessary for the better carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1) regulations may be made for all or any of the following purposes:
- (a) the appointment, conditions of employment, discipline, code of conduct and termination of employment of staff of the Commission;
 - (b) security checks of officers of the Commission and applicants for appointment or engagement as officers of the Commission;
 - (c) the service of a notice to an occupier whose premises are entered under a search warrant;
 - (d) the issue of identity cards to officers of the Commission and their use;
 - (e) the use and custody of the seal of the Commission;
 - (f) providing generally for the performance of the functions, the exercise of the powers and the discharge of duties of the Commission under the provisions of this Act.

(3) Regulations under this section:-

- (a) may provide that any act or omission in contravention of any provision of such regulations shall be an offence;
- (b) may provide for the imposition of penalties for such offences or may allow such offences to be compounded.

Continuity with Royal Commission of Police.

103. (1) The Commission may exercise any of its functions under this Act in relation to anything done or omitted to be done by, to or in relation to the Royal Commission of Police.
- (2) Without limiting subsection (1) or any other power of the Commission, the Commission may continue any investigation or other matter commenced but not completed by the Royal Commission of Police, and may for this purpose adopt any evidence taken or assessments made by the Royal Commission of Police.
- (3) Accordingly, this Act has effect, for the purposes of this clause, with any necessary adaptations and with such modifications as may be prescribed by the regulations made under this Act.
- (4) To advise and assist the Government in formulating or amending or deleting any legislation recommended by the Royal Commission of Police.

Records of Royal Commission of Police.

104. (1) In this section:

“**dissemination**” of record included permanently parting with the possession of the record itself or any part of it:

“**possession**” includes custody or control;

“**record**” includes any document or thing (including a videotape, audiotape, computer disk, computer tape, computer program, or other electronic material), and includes any information contained in it or on it;

“**transferred record**” means any record of the Royal Commission of Police that was in the possession of the Commissioners of the Royal Commission of Police or any officer of the Royal Commission of Police and that has come, whether before or after the commencement of this clause, into the possession of the Commission, but does not include a record or class of records that is prescribed by the regulations as excluded from this clause.

- (2) A transferred record is taken at all times and for all purposes to have come lawfully into the possession of the Commission, and the possession of the record by the Commission is taken for all purposes to be lawful.
- (3) No civil or criminal liability attaches to, or is taken to have attached to, any person in connection with any act or omission involved in the giving to the Commission, or the receiving by the Commission, of a transferred record.

- (4) Nothing in this section prevents a transferred record from being disposed of or otherwise dealt with in any manner that would be available if this section had not been enacted.

First Schedule

(Section 5)

Provisions relating to Chairman, Deputy Chairman and other Commissioners

Eligibility for appointment.

1. (1) A person is not eligible to be appointed as chairman or deputy chairman of the Commission unless the person has for the ten years preceding his appointment he has been an advocate and solicitor of those courts or any of them or a member of the judicial and legal service of the Federation or of the legal service of a State, or sometimes one and sometimes another.
- (2) A person is not eligible to be appointed as Commissioner or to act in that office if the person is a member of a House of Parliament or a member of a State Legislature of any State or holds or had held office as a member of the Force.
- (3) A Commissioner may at any time resign his office by letter addressed to the Prime Minister.
- (4) A Commissioner shall, before assuming the duties and responsibilities of his office, make in such manner as he may declare to be most binding on his conscience before the Yang di-Pertuan Agong such declaration as may be prescribed by the Prime Minister.

Basis of office.

2. (1) The office of the Chairman and the two Deputy Chairman are a full-time office.
- (2) The Commissioners, other than the Chairman and the Deputy Chairmen, are required to hold the office for such period and upon such terms and conditions as may be specified in the instrument of appointment.

Terms of office.

3. (1) Subject to this Schedule, a Commissioner holds office for a term not exceeding 3 years as may be specified in the instrument of appointment, but is eligible for re-appointment.
- (2) A person may not hold the office of Commissioner for more than 2 terms consecutively.
- (3) The appointment of the Chairman of the Commission shall be for a term not exceeding three years but he may be eligible for re-appointment at the end of his term of office.

Remuneration.

4. (1) The Prime Minister may determine such amounts as he may deem fit towards the payment of any remuneration, pension, allowance or gratuity to or in respect of the Chairman and the two Deputy Chairmen.
- (2) Where a Commissioner ceases, otherwise than on the expiry of his term of office, to hold office as a Chairman, a Deputy Chairman or a member of the Commission, the Prime Minister may direct the Commission to make a payment to that person of such amount as the Prime Minister may determine.
- (3) A person shall hold office as an ordinary member of the Commission in accordance with the terms of his appointment.
- (4) An appointment as an ordinary member may be to whole or to part time membership of the Commission.
- (5) A Commissioner shall be paid such travelling and subsistence allowances as the Prime Minister may from time to time determine.

Commissioner to devote time to business of the Commission.

5. Every Commissioner shall devote such time to the business of the Commission as may be necessary to discharge his duties effectively.

Vacancy in office.

6. (1) The office of a Commissioner becomes vacant if the holder:
 - (a) dies;
 - (b) completes a term of office and is not re-appointed;
 - (c) resigns the office by instrument in writing addressed to the Prime Minister;
 - (d) is nominated for election as a member of a House of Parliament or a State Legislature of any State;
 - (e) becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (f) becomes a mentally incapacitated person or is otherwise incapable of discharging his duties;
 - (g) is convicted 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 (in itself only or in addition to or in lieu of a fine) for more than three months;
 - (h) absents himself from three consecutive meetings of the Commission without leave of the Chairman; or

(i) is removed from office under subclause (2).

- (2) A Commissioner shall, during the period of his appointment as set out in the instrument of appointment, hold office at the pleasure of the Yang di-Pertuan Agong, subject to the advice of the Prime Minister.

Filling of vacancy.

7. Where any person ceases to be a member of the Commission by reason of any of the provisions of this Act, the Yang di-Pertuan Agong may appoint another person to fill the vacancy.

Meetings.

8. (1) The Commission shall meet at least once in every month at such time and place as may be appointed by the Chairman.
- (2) The Chairman shall preside at a meeting of the Commission.
- (3) The quorum of the Commission shall be four.
- (4) Every member of the Commission present shall be entitled to one vote.
- (5) If on a question to be determined by the Commission there is an equality of votes, the Chairman shall have a casting vote.
- (6) The Commission may invite any other person to attend any meeting or discussion of the Commission for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the meeting or discussion.

Common seal.

9. (1) The Commission shall have a common seal which shall bear such device as the Commission shall approve and such seal may be broken, changed, altered or made anew as the Commission may think fit.
- (2) Until a seal is provided by the Commission, a stamp bearing the words "Police Complaints and Misconduct Commission" may be used and shall be deemed to be the common seal of the Commission.
- (3) The common seal shall be kept in the custody of the Secretary of the Commission or such other person as may be authorised by the Chairman and shall be authenticated by the Secretary or such authorised person or by any officer authorised by either the Secretary or the Chairman in writing; and all deeds, documents or other instruments purporting to be sealed with that seal, authenticated as specified in this subparagraph, shall, until the contrary is proved, be deemed to have been validly executed.
- (4) Notwithstanding subparagraph (3), any document or instrument which if executed by a person who is not a body corporate would not be required to be under seal may in like manner be executed by the Commission and any such document or instrument may be executed on behalf of the Commission by any officer or servant of the Commission.
- (5) The common seal of the Commission shall be officially and judicially noticed.

Disclosure of interest.

10. A Commissioner having, directly or indirectly, by himself or his spouse any interest in any proceedings or inquiry before the Commission shall disclose to the Commission the fact and the nature of his interest and such disclosure shall be recorded in the minutes or notes of proceedings of the Commission and, unless specifically authorized by the chairman, such Commissioner shall take no part in any discussion, hearing or decision of the Commission relating to the matter.

Notes of proceedings and minutes.

11. (1) The Commission shall cause notes of proceedings of all inquiries and minutes of all its meetings to be maintained and kept in a proper form.
- (2) Any notes of proceedings or minutes made of a meeting of the Commission shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.
- (3) Every meeting of the Commission in respect of the proceedings of which notes of proceedings or minutes have been made in accordance with subparagraphs (1) and (2) shall be deemed to have been duly convened and held and all Commissioners thereat to have been duly qualified to act.

Validity of acts and proceedings.

12. No act done or proceeding taken under this Act shall be questioned or invalidated on the ground of —
 - (a) any vacancy in the membership of, or any defect in the constitution of, the Commission; or
 - (b) any omission, defect or irregularity not affecting the merits of the case.

Procedure.

13. Subject to this Act, the Commission shall determine its own procedure.

SECOND SCHEDULE

(SECTION 13)

Other Functions of the Commission.

The functions of the Commission include the following —

- (a) to assemble evidence that may be admissible in the prosecution of a person for a criminal offence and to carry out such prosecution;
- (b) to gather and assemble evidence that may be used in the investigation of a police complaint;
- (c) to receive and assess all matters not completed by the Royal Commission of Police, to treat any investigations or assessments of the Royal Commission of

Police as its own, to initiate or continue with investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act, and to deal with records of the Royal Commission of Police as provided by this Act;

- (d) to assemble evidence that may be admissible in the disciplinary proceedings of a police officer before the Disciplinary Authority;
- (e) to furnish evidence obtained in the course of the investigations, being evidence that may be admissible in the prosecution of a person other than a police officer for a criminal offence or a disciplinary offence to the Public Prosecutor or to the relevant authority concerned;
- (f) to undertake inquiries into or audits of any aspect of police activities for the purpose of ascertaining whether there is police misconduct or any circumstances that may be conducive to police misconduct, in particular, to monitor the quality of the management of investigations conducted within the Force and to undertake audits of those investigations;
- (g) to make recommendations concerning police corruption, education programmes, police corruption prevention programmes, and similar programmes, conducted within the Force or by the Anti-Corruption Agency;
- (h) to advise police and other authorities on ways in which police misconduct may be eliminated; and
- (i) to monitor and report on the conduct and effectiveness of the internal audits of the Force.