

No. S 57

**ROYAL BRUNEI POLICE FORCE ACT
(Chapter 50)**

ROYAL BRUNEI POLICE FORCE (DISCIPLINARY PROCEEDINGS) REGULATIONS, 2021

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ROYAL BRUNEI POLICE FORCE ACT
(Chapter 50)

ROYAL BRUNEI POLICE FORCE (DISCIPLINARY PROCEEDINGS) REGULATIONS, 2021

In exercise of the power conferred by section 64 of the Royal Brunei Police Force Act, His Majesty the Sultan and Yang Di-Pertuan in Council hereby makes the following Regulations —

Citation and commencement

1. These Regulations may be cited as the Royal Brunei Police Force (Disciplinary Proceedings) Regulations, 2021 and shall commence on the same date as the Royal Brunei Police Force Act (Amendment) Order, 2021.

Application

2. These Regulations apply to the disciplinary proceedings of senior police officers instituted on or after the date of commencement of these Regulations, whether or not the act or omission committed by the senior police officers in respect of which disciplinary proceedings was instituted occurred before that date.

Interpretation

3. In these Regulations, unless the context otherwise requires —

“Committee” means a Committee of Inquiry convened by the Commission under regulation 6;

“Permanent Secretary” means the Permanent Secretary to the Office of the Prime Minister.

Investigation

4. (1) If it is represented to the Commission by the Permanent Secretary or the Commissioner, as the case may be, that a complaint is lodged against a senior police officer alleging the commission by him of any misconduct referred to in the Schedule, the Commission may cause an investigation to be made into the matter in such manner as it thinks fit.

(2) For the purposes of sub-regulation (1), the Commission may appoint a body of police officers or public officers to conduct the investigation and to submit a report thereon.

(3) If the result of the investigation discloses grounds for doing so, the Commission may cause proceedings to be taken under regulation 5.

Preliminary proceedings

5. (1) The senior police officer shall be notified in writing by the Chairman of the Commission of the grounds, which shall be reduced to a charge or charges, upon which it is intended for disciplinary action to be taken against him and he shall be given 14 working days within which to exculpate himself in writing.

(2) The Commission may, after considering the case made against the senior police officer, his reply thereto and the result of the investigation, if any, if it is of the opinion that —

(a) the allegation has been proved, recommend to His Majesty the Sultan and Yang Di-Pertuan the imposition of penalty such as stoppage or deferment of increment, fine, reprimand or a combination of such penalties;

(b) the result of the investigation discloses grounds for doing so, recommend to His Majesty the Sultan and Yang Di-Pertuan that the senior police officer retires in the public interest with the present rank or with a reduction in rank without further proceedings under these Regulations, with or without reduction in retirement benefits; or

(c) the subject of the complaint warrant proceedings with a view to reduction in rank, dismissal or both, cause proceedings to be taken under regulation 6.

(3) Where the senior police officer —

(a) admits to the charge or charges or any one of the charges; or

(b) fails to furnish an exculpatory statement within the time specified in sub-regulation (1),

the Commission shall proceed to determine the matter as it may think fit.

Inquiry proceedings

6. (1) Where proceedings are taken under this regulation, the Commission shall convene a Committee of Inquiry to enquire into the matter and to submit a report to the Commission.

(2) The Committee shall consist of a legal or judicial officer who shall be the chairman and two other senior public officers who shall be selected with due regard to the standing of the senior police officer concerned and to the nature and gravity of the offence which are the subject of the inquiry.

(3) The senior police officer shall be informed of the date on which the Committee will commence its inquiry and the senior police officer shall attend the inquiry and shall be permitted to —

(a) cross-examine the witnesses;

(b) give evidence on his own behalf;

(c) have such witnesses as he may wish to call on his behalf; and

(d) have access to information contained in any document at a reasonable time before the documents are tendered in evidence.

(4) The record of the proceedings of the Committee shall consist of the information obtained by the Committee and a report by the Committee.

(5) The information shall not ordinarily be set out in the form of question and answer but in the form of a narrative but the Committee may, in its discretion, record any particular question and answer.

(6) At the inquiry, the evidence on behalf of the Government shall be presented by a senior police officer or a public officer nominated by the Commission.

(7) The Committee may, in its discretion, permit the senior police officer under inquiry to be represented by an advocate and solicitor or by another senior police officer.

(8) A person representing the senior police officer under inquiry shall not be senior in rank to any member of the Committee or to the officer nominated by Commission under sub-regulation (6).

(9) The Committee may, at any time, exclude any person representing the senior police officer under inquiry from the inquiry if the Committee is of the view that the person has misconducted himself or is attempting to delay the inquiry.

(10) The Committee shall not be bound to act in a formal manner and shall not be bound by the Evidence Act (Chapter 108) or by any other written law relating to evidence but may inform itself on any matter in such manner as it thinks fit.

(11) The Committee shall, whenever possible, proceed with its inquiry from day to day and no adjournment shall be given except for reasons to be recorded in writing.

(12) The Committee may, in its discretion, conduct proceedings under these Regulations notwithstanding the absence of one of its members, and the validity of such proceedings shall not be challenged on this ground.

(13) If the Committee is satisfied that the senior police officer under inquiry or any person representing him is hampering or attempting to hamper the progress of the inquiry, the Committee shall administer a warning to the senior police officer and, where appropriate, the person representing him.

(14) If after such warning the Committee is satisfied that the warning is being disregarded, the Committee shall make a written note of this and shall proceed to carry on with and complete the inquiry in such manner as it thinks fit.

(15) The Committee shall, within 30 days of the conclusion of the proceedings unless the Commission grants an extension of time, submit its report to the Commission.

(16) The Commission may, upon receiving the report from the Committee, where it thinks fit, require the Committee to reconvene to consider further evidence and to meet for that purpose except that the senior police officer shall be given not less than 14 days' notice of such further meeting of the Committee to reply thereto.

(17) If, upon considering all the facts available, the Commission is of the opinion that —

(a) the senior police officer should be reduced in rank, dismissed or both, the Commission may recommend to His Majesty the Sultan and Yang Di-Pertuan the reduction in rank, dismissal or both of the senior police officer from such date as the Commission may think fit;

(b) the senior police officer should be reduced in rank and retire in the public interest, the Commission may recommend to His Majesty the Sultan and Yang Di-Pertuan the reduction in rank and retirement in the public interest of the senior police officer from such date as the Commission may think fit; or

(c) some punishment other than reduction in rank, dismissal or both should be imposed, the Commission may recommend to His Majesty the Sultan and Yang Di-Pertuan —

(i) the imposition of penalty such as stoppage or deferment of increment, fine, reprimand or a combination of such penalties;
or

- (ii) that the senior police officer should retire in the public interest without further proceedings under these Regulations, with or without reduction in retirement benefits.

Retirement in public interest

7. (1) Notwithstanding any other provisions in these Regulations, if the Commission is of the opinion that it is desirable in the public interest to recommend to His Majesty the Sultan and Yang Di-Pertuan that a senior police officer shall be required to retire with the present rank or with a reduction in rank from the service on grounds which cannot be suitably dealt with, by specific charges, under these Regulations, it shall act in accordance with this regulation.

(2) The Commission shall give the senior police officer an opportunity of submitting a reply to the complaints by reason of which his retirement with the present rank or with a reduction in rank is contemplated within the time specified by the Commission.

(3) If the Commission is satisfied, upon a consideration of the report and of the reply by the senior police officer and having regard to the conditions of service, the usefulness of the senior police officer thereto and all the other circumstances of the case, that it is desirable in the public interest to do so, it may recommend to His Majesty the Sultan and Yang Di-Pertuan that the senior police officer retire in the public interest with the present rank or reduction in rank and the senior police officer's service shall accordingly be terminated on such date as His Majesty the Sultan and Yang Di-Pertuan may specify.

(4) In every case of retirement in the public interest under these Regulations, the question of pension, gratuity or other allowance shall be dealt with under any written law for the time being in force.

Reduction in rank and dismissal on grounds of security

8. (1) Notwithstanding any other provisions in these Regulations, if the Commission is satisfied that it is desirable in the interests of the security of Brunei Darussalam to do so, it may recommend to His Majesty the Sultan and Yang Di-Pertuan that a senior police officer's rank be reduced and be dismissed on the grounds that his conduct has been prejudicial to the security of Brunei Darussalam.

(2) The Commission shall give the senior police officer an opportunity of submitting a reply to the complaints, by reason of which his reduction in rank and dismissal is contemplated, within the time specified by the Commission.

(3) If the Commission is satisfied, upon a consideration of the report and of the reply by the senior police officer and having regard to the conditions of

service, the usefulness of the police officer thereto and all the other circumstances of the case, that it is desirable in the interests of the security of Brunei Darussalam to do so, it may recommend to His Majesty the Sultan and Yang Di-Pertuan that the senior police officer's rank be reduced and be dismissed on the grounds that his conduct has been prejudicial to the security of Brunei Darussalam and the senior police officer's service shall accordingly be terminated on such date as His Majesty the Sultan and Yang Di-Pertuan may specify.

Interdiction

9. (1) If in any case the Commission considers that the public interest requires that a senior police officer should cease to exercise the powers and functions of his office, the Commission may recommend to His Majesty the Sultan and Yang Di-Pertuan that the senior police officer be interdicted from the exercise of the powers and functions of his office, provided that criminal or disciplinary proceedings are being instituted or contemplated.

(2) Subject to regulation 12(1), a senior police officer who has been interdicted may be allowed to receive a minimum of 50 *per cent* of the salary of his office for such period during the period of interdiction as His Majesty the Sultan and Yang Di-Pertuan shall think fit or His Majesty the Sultan and Yang Di-Pertuan may order the withholding of his total salary.

(3) If the proceedings against a senior police officer do not result in the dismissal or any other punishment of the senior police officer, he shall be entitled to the full amount of the salary which he would have received had he not been interdicted.

(4) If the punishment is other than dismissal, the senior police officer may be refunded such portion of the salary withheld as a result of his interdiction as His Majesty the Sultan and Yang Di-Pertuan shall think fit.

Criminal proceedings

10. Unless His Majesty the Sultan and Yang Di-Pertuan orders otherwise, if criminal proceedings are instituted against a senior police officer, proceedings for his reduction in rank, dismissal or both upon any grounds involved in the criminal charge shall not be taken until —

(a) the criminal proceedings have been determined; or

(b) if there is an appeal against conviction, the appeal has been withdrawn or deemed to have been withdrawn or disposed of by the final appellate court.

Proceedings after conviction of criminal charge

11. (1) The Commission may, where a senior police officer is convicted of a criminal charge —

(a) consider the record of the proceedings of the court; and

(b) if it is of the opinion that the senior police officer should be reduced in rank, dismissed or both, or otherwise punished, recommend to His Majesty the Sultan and Yang Di-Pertuan the punishment of the senior police officer accordingly.

(2) The Commission shall not be obliged to appoint a Committee in the circumstances set out in sub-regulation (1).

Salary withheld

12. (1) A senior police officer convicted of a criminal charge shall not, unless the Commission otherwise directs, receive any salary from the date of conviction, pending consideration of his case by the Commission.

(2) If the officer's salary has been withheld pending the outcome of the criminal charge, His Majesty the Sultan and Yang Di-Pertuan may order forfeiture of such withheld salary.

Proceedings on acquittal

13. (1) The Commission may, where a senior police officer is acquitted of a criminal charge —

(a) consider the record of the proceedings of the court; and

(b) if it is of the opinion that the senior police officer should be reduced in rank, dismissed or both, or otherwise punished, recommend to His Majesty the Sultan and Yang Di-Pertuan the punishment of the senior police officer accordingly after he has been given a reasonable opportunity of submitting a reply to the Commission, in regards the punishment which is contemplated, within the time specified by the Commission.

(2) The Commission shall not be obliged to appoint a Committee in the circumstances set out in sub-regulation (1).

Forfeiture of allowances or other benefits

14. (1) A senior police officer who is dismissed forfeits all claims to any allowance or other benefit which he would have enjoyed, but for his dismissal.

(2) A senior police officer whose increment is withheld pending disciplinary action may forfeit such withheld increment at the discretion of His Majesty the Sultan and Yang Di-Pertuan.

Officer not to resign or leave Brunei Darussalam

15. A senior police officer against whom disciplinary proceedings are instituted under these Regulations shall not, without the permission of the Commission, resign or leave Brunei Darussalam during the interval before the disciplinary proceedings are concluded.

Repeal of S 19/2003

16. (1) The Royal Brunei Police Force (Disciplinary Proceedings) Regulations, 2003 are repealed.

(2) Anything made or done under the Royal Brunei Police Force (Disciplinary Proceedings) Regulations, 2003 (S 19/2003) (repealed by these Regulations) and in force immediately prior to the commencement of these Regulations, shall as far as it is not inconsistent with the provisions of these Regulations, continue in force as if made under these Regulations.

SCHEDULE
(regulation 4(1))

MISCONDUCT

1. Speaking disparagingly of the Government in a manner calculated to bring Brunei Darussalam into disrepute.
2. Being rude to the public in speech.
3. Being discourteous to the public in manner.
4. Unpunctuality.
5. Absence from duty without leave or reasonable cause.
6. Sleeping on duty.
7. Conduct prejudicial to good order or discipline.
8. Discreditable conduct.
9. Non-compliance with or disobedience of orders or instructions.
10. Being under the influence of alcohol or drugs while on duty.
11. Insubordination.
12. Neglect of duty.
13. Malingering.
14. Excess of duty.
15. Carelessness or negligence resulting in loss or damage to Government property.
16. Wilful destruction of or damage to Government property.
17. Impropriety in dress or appearance.
18. Using personal violence to any person under custody except in the case of —
 - (a) self-defence; or
 - (b) defence of another officer or person whether or not in custody.

19. Making a false or misleading statement in the course of duty.
20. Breach of confidence.
21. Corrupt practice.
22. Convictions for a criminal offence.
23. Obstruction of duties.
24. Engaging in trade or other employment without the permission of the Commissioner.

Made this 8th. day of Jamadilawal, 1443 Hijriah corresponding to the 13th. day of December, 2021 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.**