

*Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 20,580, 26 ta' Frar, 2021*

*Taqsimha C*

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## **Nru. 200**

26. 2. 2021

### **MALTA**

#### **KAMRA TAD-DEPUTATI**

#### **HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Liġi mressaq mill-Onorevoli Chris Fearne, M.P., Deputat Prim Ministru u Ministru għas-Saħħa, f'isem il-Ministru għall-Intern, is-Sigurtà Nazzjonali u l-Infurzar tal-Liġi, u moqri għall-Ewwel darba fis-Seduta tal-25 ta' Jannar 2021.

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A BILL introduced by the Honourable Chris Fearne, M.P., Deputy Prime Minister and Minister for Health, on behalf of the Minister for Home Affairs, National Security and Law Enforcement, and read the First time at the Sitting of the 25th January 2021.

**ATT li jemenda l-Att dwar il-Pulizija, Kap. 164.**

**AN ACT to amend the Police Act, Cap. 164.**

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RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

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RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



## ABBOZZ TA' LIĠI msejjaħ

*ATT li jemenda l-Att dwar il-Pulizija, Kap. 164.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħarget b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda l-Att dwar il-Pulizija u dan l-Att għandu jinqara u jinftiehem bħala ħaġa waħda mal-Att dwar il-Pulizija, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.  
Kap. 164.

### TAQSIMA I Emendi għall-Att dwar il-Pulizija

2. Din il-Parti temenda l-Att dwar il-Pulizija u għandha tinqara u tinftiehem bħala ħaġa waħda mal-Att dwar il-Pulizija, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Kap. 164

3. Fl-Arranġament tal-Att, il-kliem "Titolu IV Dixxiplina 22-34" għandhom jiġu sostitwiti bil-kliem "Titolu IV Dixxiplina 22-34Ċ".

Emenda tal-Arranġament tal-Att.

4. Fl-artikolu 2 tal-Att prinċipali, id-definizzjoni "Kap Eżekuttiv" għandha tiġi mħassra.

Emenda tal-artikolu 2 tal-Att prinċipali

5. Fis-subartikolu (6) tal-artikolu 5 tal-Att prinċipali, il-kliem "u l-Kap Eżekuttiv" għandhom jiġu mħassra u l-kelma "għandhom" għandha tiġi sostitwita bil-kelma "għandu".

Emenda tal-artikolu 5 tal-Att prinċipali.

6. Fis-subartikolu (8) tal-artikolu 6 tal-Att prinċipali, il-kliem "flimkien mal- Kap Eżekuttiv" għandhom jiġu mħassra.

Emenda tal-artikolu 6 tal-Att prinċipali.

7. L-artikolu 7 tal-Att prinċipali għandu jiġu mħassra.

Emenda tal-artikolu 7 tal-Att prinċipali

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Emenda tal-artikolu 13 tal-Att prinċipali.

**8.** Fis-subartikolu (2) tal-artikolu 13 tal-Att prinċipali, minnufih wara l-kliem "testijiet fiżiċi" għandhom jiżdiedu l-kliem "u test tal-awrina għall-*iscreening* ta' droga jew alkoħol, jew xi test simili ieħor,".

Emenda tal-artikolu 16 tal-Att prinċipali.

**9.** L-artikolu 16 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tiegħu, il-kliem "jkun permanenti; jew" għandhom jiġu sostitwiti bil-kliem "jkun permanenti";

(b) fil-paragrafu (ċ) tiegħu, il-kliem "membru tal-Korp." għandhom jiġu sostitwiti bil-kliem "membru tal-Korp."; u

(ċ) minnufih wara l-paragrafu (ċ) għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(d) minhabba l-influenza, konsum jew abbuż ta' alkoħol jew ta' xi droga, sew waħidhom kemm flimkien ma' xi ċirkostanzi oħra, ma jkunx tajjeb li jiġi afdat bi dmiru jew b'xi dmir ieħor li jista' jinghata x'jagħmel, jew jista', bi kwalunkwe mod, ikun ta' telf ta' riputazzjoni għall-Korp; jew;

(e) jirrifjuta, mingħajr raġuni valida, li jagħmel xi test imsemmi fl-artikolu 13(2)."

Emenda tal-artikolu 23 tal-Att prinċipali.

**10.** L-artikolu 23 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Kull meta jkun meħtieġ, il-Kummissarju għandu jaħtar bord dixxiplinarju magħmul minn tliet membri, li wieħed minnhom għandu jkun iċ-*Chairperson*:

Iżda l-President tal-bord dixxiplinarju għandu jkun maħtur minn fost uffiċjali pubbliċi bi skala ta' salarji erba' (4) jew karigi oġġla li jaqdu fil-Ministeru responsabbli mill-pulizija. Iż-żewġ (2) membri l-oħra tal-Bord għandhom ikunu membri rtirati ta' grad għoli tal-Forza."; u

(b) fis-subartikolu (3) tiegħu, il-kliem "għal perjodu ta' sentejn" għandhom jiġu sostitwiti bil-kliem "għal perjodu ta' tliet (3) snin".

Żieda ta' artikoli ġodda mal-Att prinċipali.

**11.** Minnufih wara l-artikolu 34 tal-Att prinċipali għandhom

jizdiedu l-artikoli godda li ġejjin:

"Twaqqif ta' Bord tal-Appelli Dixxiplinarji tal-Pulizija.

34A. (1) Għandu jkun hemm Bord ta' Appelli Dixxiplinarji tal-Pulizija magħmul minn tliet membri, li wiehed minnhom għandu jkun iċ-*Chairperson* mahtur mill-President ta' Malta li jaġixxi fuq il-parir tal-Kabinett tal-Ministri.

(2) Iċ-*Chairperson* tal-Bord għandu jkun persuna li tkun ipprattikat bħala avukat f'Malta għal perjodu jew perjodi li jammontaw, b'kolloxx, għal mhux inqas minn seba' (7) snin. Il-membri l-oħra tal-Bord għandhom ikunu uffiċjali pubbliċi rtirati.

(3) Il-membri tal-Bord għandu jkollhom il-kariga għal perjodu ta' tliet (3) snin u għandhom ikunu eliġibbli għall-ħatra mill-ġdid.

(4) Il-persuni mahtura bħala membri tal-Bord għandhom ikollhom il-kariga sakemm jinħatru s-suċċessuri tagħhom.

(5) Il-Ministru jista' wkoll jahtar *chairperson* sostitut u membri sostituti tal-Bord biex ipogġu fuq il-Bord kull meta iċ-*chairperson* jew il-membri jew xi wiehed minnhom huwa għal xi raġuni valida li ma jistax temporanjament jattendi u jipparteċipa fis-seduti tal-Bord:

Iżda, sa fejn ikun prattiku, l-istess *chairperson* u l-istess membri għandhom jisimġu u jikkonkludu l-istess każ.

(6) (a) Għandu jkun hemm numru ta' kmamar tal-Bord kif il-Ministru jista' jippreskrivi.

(b) Meta jkun hemm aktar minn kamra waħda tal-Bord, il-każijiet għandhom jiġu assenjati lill-kmamar varji skont dawk ir-regoli kif il-Ministru jista' jippreskrivi.

(c) Kull kamra tal-Bord għandha tkun komposta minn *chairperson* u tliet (3) membri oħra kif provdut fis-subartikoli (1) sa (3), li flimkien mad-dispożizzjonijiet l-oħra kollha ta' dan l-Att għajr dan is-subartikolu għandhom japplikaw fir-rigward ta' kull kamra bħallikieku referenza fihom għall-Bord kienet referenza għal kamra tal-Bord.

(7) Jekk xi vakanza fil-Bord issehħ waqt it-terminu tal-ħatra, minħabba l-mewt, ir-riżenja, jew għal kwalunkwe kawża oħra, il-President għandu, mill-aktar fis prattiku, jahtar persuna oħra biex timla l-post vakanti u l-persuna hekk maħtura għandha tibqa' fil-kariga għall-bqija tal-mandat tal-predeċessor tiegħu:

Iżda l-Bord għandu jkompli jaġixxi minkejja kwalunkwe vakanza bħal din.

(8) Membru tal-Bord għandu jitneħħa mill-kariga mill-President li jaġixxi fuq il-parir tal-Kabinett tal-Ministri fuq il-bażi tal-inkapaċità li jaqdi l-funzjonijiet tal-uffiċċju tiegħu, sew jekk minħabba f'inkapaċità tal-ġisem jew tal-moħħ jew minħabba xi kawża oħra jew imġiba ħażina.

(9) Il-Bord għandu jkollu Segretarju li jkun maħtur mill-Ministru.

Appelli minn  
deċiżjonijiet  
tal-Bord tad-  
Dixxiplina.

34B. (1) Membru tal-Korp għandu jkollu dritt tal-appell quddiem il-Bord tal-Appelli Dixxiplinarji tal-Pulizija skont dan l-artikolu kontra rakkomandazzjoni ta' sejba ta' ħtija u kwalunkwe piena korrispondenti imposta mill-Kummissarju tal-Pulizija dwar reati żgħar stipulati fit-Tieni Skeda, jew fejn il-membru tal-Forza jista' jipprova li kien hemm injorat grossa tal-proċeduri stipulati f'dan it-Titolu u li dan l-injorat ippreġudika l-interessi tiegħu.

(2) Avviż tal-appell skont is-subartikolu (1), li jistabbilixxi r-raġunijiet tal-appell, għandu jiġi kkomunikat, bil-miktub, lis-Segretarju lill-Bord tal-Appelli Dixxiplinarji tal-Pulizija sa mhux aktar tard minn għaxart (10) ijiem ta' xogħol mid-data li fiha d-deċiżjoni ġiet notifikata lill-membru tal-Forza konċernata. Kopja tal-avviż tal-appell għandha tintbagħat fl-istess hin mill-membru tal-Korp lill-Kummissarju tal-Pulizija.

(3) Meta jirċievi kopja ta' avviż ta' appell, il-Kummissarju tal-Pulizija għandu, sa mhux aktar tard minn ħamest (5) ijiem ta' xogħol, jibgħat lill-Bord tal-Appelli Dixxiplinarji tal-Pulizija d-dokumentazzjoni rilevanti dwar il-każ, inkluż ir-rapport tal-Bord tad-Dixxiplina.

(4) Is-Segretarju tal-Bord tal-Appelli Dixxiplinarji tal-Pulizija għandu jirrikonoxxi l-irċevuta tal-avviż ta' appell li sar taħt dan l-artikolu u kull appell li rċieva wara l-perjodu ta' għaxart (10) ijiem ta' xogħol stabbiliti fis-subartikolu (2) ma għandux ikun meqjus mill-Bord tal-Appelli Dixxiplinarji tal-Pulizija.

(5) Jekk il-Bord tal-Appelli Dixxiplinarji tal-Pulizija huwa tal-fehma li l-appell jisthoqqlu konsiderazzjoni skont is-subartikolu (1), għandu jagħti opportunità lill-membri tal-Korp akkużat u lill-Kummissarju tal-Pulizija biex jagħmel rappreżentazzjonijiet orali; imma l-Bord tal-Appelli Dixxiplinarji tal-Pulizija għandu jirregola l-proċedura tiegħu stess meta jittratta l-appell.

(6) Il-Bord tal-Appelli Dixxiplinarji tal-Pulizija, wara li jikkunsidra r-raġunijiet għall-appell, ir-rekord tal-proċeduri u kwalunkwe rappreżentazzjoni orali, għandu jipproċedi biex jiddeċiedi jekk d-deċiżjoni tal-Kummissarju tal-Pulizija għandha tkun ikkonfermata fir-rigward tal-htija tal-appellant u, jew il-piena imposta, jew li l-Kummissarju tal-Pulizija għandu jemendaha jew jirrevokaha.

(7) Il-Bord tal-Appelli Dixxiplinarji tal-Pulizija għandu jinforma lill-appellant bir-riżultat tal-appell.

(8) Xejn f'dan l-artikolu ma għandu jipprevjeni lill-Bord tal-Appelli Dixxiplinarji tal-Pulizija, qabel is-smiġh jew f'kull hin matul is-smiġh ta' appell, milli jiċhad jew ma jhallix appell sommarjament mingħajr ma jisimġu jew mingħajr ma jkompli jisimġu kif jista' jkun il-każ, fuq il-bażi li appell huwa frivoli jew vessatorju jew wieħed li altrimenti ma kellux jiġi imressaq jew isir.

Is-sospensjoni tal-appell pendent.

34Ċ. Piena imposta mill-Kummissarju tal-Pulizija ma għandhiex tidhol fis-seħh qabel l-iskadenza ta' mill-inqas għaxart (10) ijiem ta' xogħol mid-data li fiha l-membri tal-Korp ġie notifikat bil-piena mill-Kummissarju tal-Pulizija u, jekk ġie ppreżentat appell, il-piena m'għandhiex tidhol fis-seħh sakemm tittiehed deċiżjoni mill-Bord tal-Appelli Dixxiplinarji tal-Pulizija."

**12.** Fis-subartikolu (4) tal-artikolu 37 tal-Att prinċipali, il-kelma 'il-Pulizija,' għandha tiġi sostitwita bil-kelma 'il-Pulizija.' u l-kliem 'jew lill-Kap Eżekuttiv skont kif ikun il-każ' għandhom jiġu mħassra.

Emenda tal-artikolu 37 tal-Att prinċipali.

**13.** Il-paragrafu (a) tas-subartikolu (1) tal-artikolu 103 tal-Att prinċipali għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

Emenda tal-artikolu 103 tal-Att prinċipali.

"(a) meta jew wara li jagħlaq l-età ta' erbgħa u sittin (64) sena, jew jekk ikun għalaq hamsa u għoxrin (25) sena servizz fil-Korp:

Izda kull meta uffiċjal tal-pulizija li jkun diġà ottjena l-ħlas ta' pensjoni shiħa, jerga' jingħaqad bħala membru tal-Korp,

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huwa għandu jservi bhala membru għal perjodu ta' mhux inqas minn sentejn (2) sabiex il-pensjoni tiegħu tiġi aġġustata;"

## TAQSIMA II

### Revoka tar-Regolamenti li jirregolaw id-Doveri u l-Kondizzjonijiet tal-Ħatra tal-Kap Eżekuttiv

L.S. 164.03

**14.** Id-dispożizzjonijiet tar-Regolamenti li jirregolaw id-Doveri u l-Kondizzjonijiet tal-Ħatra tal-Kap Eżekuttiv huma permezz ta' dan l-att, imħassra, mingħajr preġudizzju għal dak kollu li sar jew li naqas milli jsir tahtom.

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### Ghanijiet u Raġunijiet

L-għanijiet u raġunijiet ta' dan l-Abbozz ta' Liġi huma li jipprovdu mekkaniżmu għall-appell għall-reati dixxiplinarji żgħar illi jinstemgħu mill-Bord Dixxiplinarju u sabiex isiru dispożizzjonijiet għat-tkeċċija ta' uffiċjali li jinstabu taht l-influwenza ta' alkoħol jew drogi.



**A BILL  
entitled**

*AN ACT to amend the Police Act, Cap. 164.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. The short title of this Act is the Police (Amendment) Act, 2021 and this Act shall be read and construed as one with the Police Act, hereinafter referred to as "the principal Act".

Short title.  
Cap. 164.

**Part I  
Amendments to the Police Act**

2. This Part amends the Police Act and this Part shall be read and construed as one with the Police Act hereinafter referred to as "the principal Act".

Cap. 164.

3. In the Arrangement of the Act, the words "Title IV Discipline 22-34" shall be substituted by the words "Title IV Discipline 22-34C".

Amendment of  
the  
Arrangement of  
the Act.

4. In article 2 of the principal Act, the definition 'Chief Executive Officer' shall be deleted.

Amendment of  
article 2 of the  
principal Act.

5. In sub-article (6) of article 5 of the principal Act, the words 'and the Chief Executive Officer' shall be deleted.

Amendment of  
article 5 of the  
principal Act.

6. In sub-article (8) of article 6 of the principal Act, the words 'and the Chief Executive Officer' shall be deleted.

Amendment of  
article 6 of the  
principal Act.

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Amendment of article 7 of the principal Act.

**7.** Article 7 of the principal Act shall be deleted.

Amendment of article 13 of the principal Act.

**8.** In sub-article (2) of article 13 of the principal Act, immediately after the words "physical tests" there shall be added the words "and urine drug screening, or alcohol, or any other similar test,".

Amendment of article 16 of the principal Act.

**9.** Article 16 of the principal Act shall be amended as follows:

(a) in paragraph (b) thereof, the words "to be permanent; or" shall be substituted by the words "to be permanent;"

(b) in paragraph (c) thereof, the words "member of the Force." shall be substituted by the words "member of the Force;" and

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraphs:

"(d) owing to the influence, consumption or abuse of alcohol or any drug, whether alone or in combination with any other circumstances, is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or may, in any way whatsoever, be of discredit to the Force;

(e) refuses, without a valid reason, to be tested as mentioned in article 13(2)."

Amendment of article 23 to the principal Act.

**10.** Article 23 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) Whenever it is necessary, the Commissioner shall appoint a disciplinary board composed of three (3) members, one of whom shall be the Chairperson:

Provided that the Chairperson of the disciplinary board shall be appointed from amongst public officers with salary scale four (4) or higher performing duties within the Ministry responsible for the police. The other two (2) members of the Board shall be retired high ranking members of the Force."; and

(b) in sub-article (3) thereof, the words "for a period of two years" shall be substituted by the words "for a period of three (3) years".

**11.** Immediately after article 34 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"Establishment of Police Disciplinary Appeals Board.

34A. (1) There shall be a Police Disciplinary Appeals Board composed of three (3) members, one of whom shall be the Chairperson appointed by the President of Malta acting on the advice of the Cabinet of Ministers.

(2) The Chairperson of the Board shall be a person who has practised as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than seven (7) years. The other members of the Board shall be retired public officers.

(3) The members of the Board shall hold office for a period of three (3) years and shall be eligible for reappointment.

(4) Persons appointed as members of the Board shall hold office until their successors are appointed.

(5) The Minister may also appoint a substitute chairperson and substitute members of the Board to sit on the Board whenever the chairperson or members or any one of them is for some valid reason unable temporarily to attend and participate in the sittings of the Board:

Provided that, as far as practicable, the same chairperson and the same members shall hear and conclude the same case.

(6) (a) There shall be such a number of chambers of the Board as the Minister may prescribe.

(b) Where there is more than one chamber of the Board, cases shall be assigned to the various chambers in accordance with such rules as the Minister may prescribe.

(c) Each chamber of the Board shall be composed of a chairperson and three (3) other members as provided in sub-articles (1) to (3), which together with all the other provisions of this Act other than this sub-article shall apply with respect to each chamber as if reference therein to the Board were a reference to a chamber of the Board.

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(7) If any vacancy in the Board occurs during the term of appointment, on account of death, resignation, or for any other cause, the President shall, as soon as practicable, appoint another person to fill the vacancy and the person so appointed, shall remain in office for the remainder of the term of office of his predecessor:

Provided that the Board shall continue to act notwithstanding any such vacancy.

(8) A member of the Board shall be removed from office by the President acting on the advice of the Cabinet of Ministers on the ground of inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause or for misbehaviour.

(9) The Board shall have a Secretary who shall be appointed by the Minister.

Appeals from  
decisions of  
the  
Disciplinary  
Board.

34B. (1) A member of the Force shall have a right of appeal to the Police Disciplinary Appeals Board in accordance with this article against a recommendation of a finding of guilt and any corresponding penalty imposed by the Commissioner of Police relating to minor offences set out in the Second Schedule, or where the member of the Force can prove that there has been a gross disregard of the procedures laid down in this Title and such disregard had prejudiced his interests.

(2) Notice of appeal under sub-article (1), setting out the grounds of the appeal, shall be communicated, in writing, to the Secretary to the Police Disciplinary Appeals Board by not later than ten (10) working days from the date on which the decision was notified to the member of the Force concerned. A copy of the notice of appeal shall concurrently be sent by the member of the Force to the Commissioner of Police.

(3) On receiving a copy of a notice of appeal, the Commissioner of Police shall, by not later than five (5) working days, transmit to the Police Disciplinary Appeals Board the relevant documentation relating to the case, including the report of the Disciplinary Board.

(4) The Secretary of the Police Disciplinary Appeals Board shall acknowledge the receipt of the notice of appeal made under this article and any appeal received after the time period of ten (10) working days established in sub-article (2) shall not be considered by the Police Disciplinary Appeals Board.

(5) If the Police Disciplinary Appeals Board is of the opinion that the appeal merits consideration in terms of sub-article (1), it shall give an opportunity to the member of the Force charged and to the Commissioner of Police to make oral representations; but the Police Disciplinary Appeals Board shall otherwise regulate its own procedure in dealing with the appeal.

(6) The Police Disciplinary Appeals Board, after considering the grounds for appeal, the record of the proceedings, and any oral representations, shall proceed to decide whether the decision of the Commissioner of Police shall be confirmed as to the guilt of the appellant and, or the penalty imposed, or that the Commissioner of Police should amend or revoke it.

(7) The Police Disciplinary Appeals Board shall inform the appellant of the outcome of the appeal.

(8) Nothing in this article shall prevent the Police Disciplinary Appeals Board, either before the hearing or at any time during the hearing of an appeal, from summarily dismissing or disallowing an appeal without hearing it or without hearing it any further as the case may be, on the grounds that an appeal is frivolous or vexatious or one that should not otherwise have been brought or made.

Suspension of penalty pending appeal.

34C. A penalty imposed by the Commissioner of Police shall not be put into effect before the lapse of at least ten (10) working days from the date on which the member of the Force was notified of the penalty by the Commissioner of Police and, if an appeal has been lodged, the penalty shall not be put into effect pending a decision by the Police Disciplinary Appeals Board."

**12.** In sub-article (4) of article 37 of the principal Act, the words ", or the Chief Executive Officer as the case may be" shall be deleted.

Amendment of article 37 of the principal Act.

**13.** Paragraph (a) of sub-article (1) of article 103 of the principal Act shall be substituted by the following new paragraph:

Amendment of article 103 of the principal Act.

"(a) on or after attaining the age of sixty-four (64) years or if he has completed twenty-five (25) years service in the Force:

Provided that whenever a police officer who has already obtained the full pensionable emoluments, is reinstated as a member of the Force, he shall serve as a member for a period

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of not less than two (2) years in order for his pension to be reviewed;".

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**PART II**  
**Revocation of the Chief Executive Officer**  
**(Duties and Conditions of Appointment) Regulations.**

S.L. 164.03

**14.** The provisions of the Chief Executive Officer (Duties and Conditions of Appointment) Regulations are hereby, by means of this act, being repealed, without prejudice to anything done or omitted to be done thereunder.

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**Objects and Reasons**

The objects and reasons of this Bill are to provide for an appeal mechanism for minor disciplinary offences that are heard by the Disciplinary Board and to provide for the removal from office of officers found to be under the influence of alcohol or drugs.



