

D.R. 25/2019

INDEPENDENT POLICE COMPLAINTS OF MISCONDUCT COMMISSION BILL 2019
AMENDMENT IN COMMITTEE

ENGLISH LANGUAGE TEXT

1. Long title

The long title of the Bill is amended by substituting for the words “Independent Police Complaints of Misconduct Commission” the words “Independent Commission for Police Conduct”.

2. Clause 1

Subclause 1(1) of the Bill is amended by substituting for the words “Independent Police Complaints of Misconduct Commission” the words “Independent Commission for Police Conduct”.

3. Clause 2

Clause 2 of the Bill is amended—

(a) by inserting after the definition of “Complaints Committee” the following definition:

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

(b) in the definition of “Disciplinary Board”, by substituting for the word “established” the words “the members of which are appointed by the Commission”;

(c) by inserting after the definition of “Disciplinary Board” the following definition:

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

(d) by inserting after the definition of “misconduct” the following definition:

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

(e) in the definition of “Commission”, by substituting for the words “Independent Police Complaints of Misconduct Commission” the words “Independent Commission for Police Conduct”.

4. **Clause 3**

Subclause 3(1) of the Bill is amended by substituting for the words “Independent Police Complaints of Misconduct Commission” the words “Independent Commission for Police Conduct”.

5. **Clause 6**

Clause 6 of the Bill is amended—

(a) by renumbering the existing subclause (2) as subclause (3); and

(b) by inserting after subclause (1) the following subclause:

“(2) The members of the Commission shall have knowledge, skill and experience, or shown capacity and professionalism, in matters relating to law, administration, finance or any other matter relevant to the functions of the Commission.”.

6. Clause 13

Clause 13 of the Bill is amended—

(a) in subclause (1)—

(i) in paragraph *(b)*, by deleting the word “or” at the end of the paragraph;

(ii) by renumbering the existing paragraph *(c)* as paragraph *(d)*; and

(iii) by inserting after paragraph *(b)* the following paragraph:

“*(c)* to any officer of the Commission; or”; and

(b) in subclause (2), by inserting after the word “committee” the words “, an officer of the Commission”.

7. Clause 21

Subclause 21(3) of the Bill is amended by substituting for the number “44” the number “48”.

8. Clause 22

Clause 22 of the Bill is amended—

(a) in subclause (1), by substituting for the words “The Commission may receive or deal with complaints against any member of the police force referred to it, on the following misconduct:” the words “Any conduct falling under any of the following descriptions shall amount to a misconduct:”;

(b) by substituting for subclause (2) the following subclause:

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

(c) by inserting after subclause (2) the following subclause:

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

9. Clause 24

Clause 24 of the Bill is amended—

(a) in subclause (1), by deleting the words “in writing”; and

(b) by deleting subclause (4).

10. Clause 25

Clause 25 of the Bill is amended—

(a) in paragraph (c)—

(i) by substituting for the words “referred to in section 22” the words “other than a minor misconduct”; and

(ii) by deleting the word “and” at the end of the paragraph;

(b) by renumbering the existing paragraph (d) as paragraph (e); and

(c) by inserting after paragraph (c) the following paragraph:

(d) where the complaint involves any minor misconduct, the complaint shall be referred to the Head of Department for investigation; and”.

11. Clause 29

Subclause 29(3) of the Bill is amended by substituting for the number “47” the number “51”.

12. Clause 31

Clause 31 of the Bill is amended—

(a) by substituting for subclause (3) the following subclause:

“(3) The Commission shall appoint members of the Disciplinary Board as specified in the First Schedule.”;

(b) by renumbering the existing subclause (4) as subclause (6);

(c) by inserting after subclause (3) the following subclauses:

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

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

(d) in the renumbered subclause (6), by substituting for the words “Notwithstanding subsection (3), where” the word “Where”.

13. Clause 32

Clause 32 of the Bill is amended in the shoulder note by inserting after the word “**misconduct**” the words “**other than minor misconduct**”.

14. Renumbering clauses 33, 34 and 35

The Bill is amended—

(a) by renumbering the existing clause 33 as clause 34; and

(b) by renumbering the existing clauses 34 and 35 as clauses 38 and 39 respectively.

15. New clause 33

The Bill is amended by inserting after clause 32 the following clause:

“Proceedings to deal with minor misconduct

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

16. Renumbered clause 34

The renumbered clause 34 of the Bill is amended—

(a) by renumbering the existing subclause (2) as subclause (3);

(b) by inserting after subclause (1) the following subclause:

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

(c) in the renumbered subclause (3), by substituting the words “subsection (1)” the words “subsections (1) and (2)”.

17. New clauses 35, 36 and 37

The Bill is amended by inserting after the renumbered clause 34 the following clauses:

“Appeals against decision relating to minor misconduct

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

Appointment of members of Minor Misconduct Disciplinary Appeal Board

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

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

Decision of the Minor Misconduct Disciplinary Appeal Board

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

(a) confirm the decision;

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

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

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

18. Renumbering clauses 36 to 60

The Bill is amended by renumbering clauses 36 to 60 as clauses 40 to 64 respectively.

19. Renumbered clause 51

The renumbered clause 51 of the Bill is amended by inserting after the words “custody of the police force” the words “as soon as possible.”.

20. Renumbered clause 53

The Bill is amended by substituting for the renumbered clause 53 the following clause:

“Power to amend Schedules

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

21. Renumbered clause 54

The renumbered clause 54 of the Bill is amended by inserting after the word “may” the words “, on the advice of the Commission,”.

22. Renumbered clause 58

The renumbered clause 58 of the Bill is amended by substituting for the number “39” the number “43”.

23. Numbering of Schedule

The Bill is amended by numbering the existing Schedule as the First Schedule.

24. New Second Schedule

The Bill is amended by inserting after the First Schedule as has been numbered the following Schedule:

"SECOND SCHEDULE

[Subsection 35(1)]

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

EXPLANATORY STATEMENT

1. Paragraphs 1 and 4 seek to amend the name of the Commission from the Independent Police Complaints of Misconduct Commission to the Independent Commission for Police Conduct.
2. Paragraph 2 seeks to amend the short title of the Act from the Independent Police Complaints of Misconduct Commission 2019 to the Independent Commission for Police Conduct 2019.
3. Paragraph 3 seeks to introduce new definitions of “Head of Department”, “Minor Misconduct Disciplinary Appeal Board” and “minor misconduct” and to amend the existing definitions of “Disciplinary Board” and “Commission”.
4. Paragraph 5 seeks to amend clause 6 to provide for specific qualifications of members of the Commission.
5. Paragraph 6 seeks to amend clause 13 to empower the Commission to delegate its power to any officer of the Commission.
6. Subparagraph 8(*b*) seeks to amend subclause 22(2) to empower the Prime Minister, on the advice of the Commission, to prescribe any conduct which may be categorised as a minor misconduct.
7. Subparagraph 8(*c*) seeks to introduce a new subclause 22(3) to empower the Prime Minister, on the advice of the Commission, to make any modification in relation to the application of sections 26, 27 and 28 to minor misconducts for the purpose of removing any difficulties.
8. Paragraph 9 seeks to amend subclause 24(1) to allow the public to lodge a complaint through various means.

9. Subparagraph 10(c) seeks to introduce a new paragraph (d) into clause 25 to enable the Complaints Committee to refer any complaint of minor misconduct to the Head of Department for investigation purposes.

10. Subparagraph 12(c) seeks to amend clause 31 to introduce a new subclause (4) to provide that the Disciplinary Board shall have jurisdiction over misconduct other than minor misconduct.

11. Subparagraph 12(d) seeks to introduce a new subclause (5) into clause 31 to empower the Commission to appoint any member of the police force to exercise disciplinary jurisdiction over minor misconduct.

12. Paragraph 15 seeks to introduce a new clause 33 to provide that the proceeding to deal with minor misconduct shall be conducted in accordance with regulations made under this Act.

13. Subparagraph 16(b) seeks to introduce a new subclause (2) into clause 34 to empower any member of the police force appointed under subsection 31(5) to impose any one or more punishment except the punishment of reduction in rank or dismissal.

14. Paragraph 17 seeks to introduce new clauses 35, 36 and 37 to provide for the right of any member of the police force who is aggrieved by any decision imposed on them by any member of the police force appointed under subclause 31(5) to appeal against such decision to the Minor Misconduct Disciplinary Appeal Board. The membership of the Minor Misconduct Disciplinary Appeal Board is provided in the new Second Schedule as introduced in subclause 36(1).

15. Paragraph 19 seeks to amend of clause 51 to require the police force to refer any incidence of grievous hurt or death in custody to the Commission as soon as possible.

16. Paragraph 20 seeks to substitute the renumbered clause 53 to enable the Prime Minister to amend the First Schedule and Second Schedule on the advice of the Commission.

17. Paragraph 21 seeks to amend the renumbered clause 54 to provide that the power of the Prime Minister to make regulations is subject to the advice of the Commission.

18. Paragraph 24 seek to introduce a new Second Schedule.

Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

