

## COMPARISON BETWEEN THE REPEALED POLICE ACT 1943 AND THE NEW POLICE ACT 2020

Police Act 1943	Police Act, 2020
<p><b>Part I- Short Title and Interpretation</b></p> <p>Contains definitions of key terms in the Act such "commissioner" "constable" "court" "police officer" etc.</p> <p>Guiding principles, objectives of the law not stated. Mission of police as a service oriented institution not stated.</p>	<p><b>Part I – Preliminary (General and Specific Objectives)</b></p> <ul style="list-style-type: none"> <li>• <b>Section 1</b> sets out the General Objectives of the Act, which include the provision of an efficient and effective police service based on the principles of accountability and transparency, protection of human rights and fundamental freedoms and partnership.</li> <li>• <b>Section 2</b> states the specific objectives of the Act includes: ensuring a people friendly Nigerian Police; embodying the values of accountability, fairness, justice and equity in Police operations; Police responsiveness, respect by Police of the dignity of all persons, safeguard of the fundamental rights in the Constitution; fostering of cooperation and partnership between the Police and the communities it serves; and respect for victims of crime and an understanding of their needs.</li> </ul>
<p><b>Comments</b></p> <p>The Act sets out a clear mission and purpose for the Nigeria Police. Insufficient articulation of a vision and mission for the Nigeria Police Force in the Police Act has been highlighted as a huge gap by police reform experts. This omission can be attributed to the background and history of the Police, which was set up in colonial times to protect colonial interests. Over the years, the Police has morphed into an institution focused on state-centred security with many seeing it as existing principally for the protection of the elite. The language of the 1943 Act does not centre citizens or communities, neither does it capture the current realities, which is that the Police is a service institution operating in a democratic setting.</p> <p>According to CLEEN Foundation's Legal Diagnostic of the Police Act, <i>"The Act is not simply a legal authorisation for the police to act. It is also business and managerial authorisation. It should guide the operations of the police and define its culture."</i> This Act adopts this recommendation (as well as recommendations of several police reform panels set up in past administrations) to capture the expectations of citizens from the Nigeria Police Force and redirect it towards a service oriented institution and not an occupying "force" that exists for the protection of a privileged few.</p>	

Police Act 1943	Police Act, 2020
<p><b>Part II- Constitution and Employment of the Force</b></p> <p>This part sets out the general duties of the police. <b>Section 4</b> provides six broad functions for the Nigeria Police Force without more. They include:</p> <ul style="list-style-type: none"> <li>• Crime Prevention;</li> <li>• Detection and apprehension of offenders;</li> <li>• Preservation of law and order;</li> <li>• Protection of life and property; and,</li> <li>• Enforcement of all laws and regulations with which they are directly charged. These include laws and regulations made by federal, state and local governments.</li> <li>• Performance of such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act.</li> </ul> <p><b>Section 5</b> provides for the Constitution of the Force to include an Inspector-General of Police (IGP), such number of Deputy Inspectors -General (DIG), Assistant Inspectors -General (AIG) as the Nigeria Police Council considers appropriate, a Commissioner for each State of the Federation and such ranks as may, from time to time, be appointed by the Nigeria Police Council.</p> <p><b>Section 6</b> provides that the Force shall be under the command of the Inspector- General, and contingents of the Force stationed in a State shall, subject to the authority of the Inspector-General, be under the command of the Commissioner of that State.</p> <p><b>Sections 7 and 8</b> sets out the duties of the DIGs and AIGs, <u>but not the IGP</u>. There is no provision on tenure for the IGP.</p>	<p><b>Part II- Establishment and Duties of the Police</b></p> <p><b>Section 3</b> establishes the Nigeria Police Force while <b>Section 4</b> sets out the general duties of the Police.</p> <p><b>Section 4</b> of the Act expands on these duties to include among others:</p> <ul style="list-style-type: none"> <li>• protection of the rights and freedom of every person in Nigeria as provided in the Constitution, the African Charter on Human and Peoples’ Right, and any other law;</li> <li>• provision of required assistance for citizen(s), facilitation of movement on highways etc. without subjecting citizens to extortion, and adoption of communist partnerships.</li> <li>• Adoption of community partnership in the performance of the duties provided under this section</li> <li>• Vetting and approval of the registration of private detective schools and private investigative outfits.</li> </ul> <p>As it relates to the performance of military duties as provided under the old law, the new Act in <b>section 4(e)</b> simply caters for the discharge of ‘such duties outside or within Nigeria’ and omits the word ‘military’.</p> <p><b>Section 6</b> establishes the Nigeria Police Council as provided under the Constitution and similar to what was obtainable in the old law. It expands the functions to include receiving and deliberating on reports on policing matters and security concerns across the country. It mandates the Council to meet at least twice a year and the Permanent Secretary of the Ministry of Police Affairs as Secretary to the Council.</p> <p><b>Part III- Appointment, Removal, Functions and Powers of the IGP</b></p> <p><b>Section 7(1)</b> stipulates that the IGP is the head of the NPF and shall exercise full command and operational control over the Police, its departments and units. <i>(This power was previously split with the President exercising operational control of the Force and the IGP having only command control).</i></p> <p><b>Section 7</b> further sets out the appointment procedure and qualification requirements for the person to be appointed as IGP - a Senior Police Officer not below the rank of an Assistant Inspector General of Police with the requisite academic qualifications of not less than a first degree or its equivalent in addition to professional and management experience.</p>

<p><b>Section 9</b> establishes the Nigeria Police Council as stated in the Constitution i.e. the President, Governor of each State, Chairman of the Police Service Commission and the IGP.</p> <p><b>Section 9(4) and (5)</b> specifically provides that the President shall be charged with operational control of the Force and the IGP shall be charged with the command of the Force subject to the directive of the President.</p> <p><b>Section 10</b> of the Act, in line with section 215(3) &amp; (4) of the Constitution authorises the President and Governor of a State to issue directions on maintenance of public safety and order to the IGP or Commissioner of Police as the case may be and mandates them to comply with same.</p>	<p>In line with section 215 of the Constitution, the IGP can only be appointed and removed by the President on the advice of the Police Council. However, under the new Act, when appointed, the IGP will have a 4-year tenure.</p> <p><b>Section 8</b> clarifies that when the Police is required to perform military duties or service with the Armed Forces, they would be under the command of the officer in charge of the Armed Forces but when undertaking internal security tasks, they would be under the control of a senior police officer.</p> <p><b>Section 9</b> defines the powers and duties of the IGP, which includes development of a yearly financial plan for the Police, distribution and organization of police officers and the Force into various components, ensuring regular training and re-training of police personnel, facilitating access to legal support for persons in police custody, making standing orders relating to operational control of the Police, to name a few. (<b>Section 16</b>).</p> <p><b>Sections 11 to 13</b> provides for the appointment and functions of Deputy Inspectors General, Assistant Inspectors General and Commissioners of Police.</p>
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**Comments**

Police reform panels have often advocated for a tenured position and qualifications for the position of IGP, including a clear appointment and removal process for the office, which the Act captures. The Act fleshes out the appointment procedure as provided under section 215 of the Constitution to ensure persons with the requisite experience are considered for the top post. This Act also provides a four-year tenure for the IGP as well. This responds to concerns of lack of autonomy and long-term visioning or planning for the Police. The introduction of tenure ensures that the office of the IGP is more secure, as it would give the occupant latitude to take decisions without fear of sudden removal. Furthermore, the old Act did not outline functions of the IGP, which the new Act has now remedied.

The Nigeria Police Council is meant to provide general supervision of the NPF and provide a key role in its organisation and administration, but they do not meet regularly in practice. The Dan Mandami Police Reform Report recommended that the Council should meet regularly, at least quarterly, to formulate and review police policies. Although the Act did not make provision for quarterly meeting, bi-annual meetings have been provided for. The functions of the Council were also expanded to include receiving and deliberating reports pertaining to policing matters and on security concerns. A rationale for this expansion is that it could afford State Governors the opportunity to make valuable inputs into the administration of the Police, which was the intendment of the Constitutional set up of the Police Council.

On the duties of the Police, the performance of military function is of note. This was expressly indicated in the old law but is removed in the new Act (**section 4**). It can be said that this function sought to address the peacekeeping duties the Nigeria Police regularly engages in. However, for the avoidance of doubt, **section 8** clarifies the issue of command when the Police is operating within and outside Nigeria.

Police Act 1943	Police Act, 2020
<p><b>Part III- General Administration</b></p> <p>Part III sets out provisions on general administration e.g. Oaths to be taken by officers on appointment, enlistment, re-engagement, appointment of supernumerary police officers</p> <p><b>Section 14</b> provides that a Constable shall on appointment be enlisted to serve in the Police for three years or for such other period as may be fixed by the Police Service Commission.</p>	<p><b>Part V- General Administration</b></p> <p><b>Section 18</b> as enacted, gives the Nigeria Police Force the responsibilities of recruiting recruit constables into the Force and recruit cadets into the Police Academy. It requires the creation of a Nigeria Police Recruitment Committee consisting of IGP, DIGs, Force Secretary, Commandants of Staff College, Jos, Police Academy Wudil and Officer in charge of legal section of the NPF.</p> <p><i>Note: this provision has recently been voided by the Court of Appeal following a lawsuit filed against the Nigeria Police Force by the Police Service Commission who constitutionally exercise the same powers. (See Parag. 30, 3<sup>rd</sup> Schedule, Part 1, 1999 Constitution)</i></p> <p>This section further empowers the Committee to recruit professionals from various fields such as <i>engineering, medicine, pathology, aviation, law, psychology, accountancy and forensic science</i>. Candidates are to undergo psychological and other medical evaluations and selected persons are to undergo specialised training in any professional field relevant to policing and law enforcement.</p> <p>Also every police officer is to serve for a period of 35 years or until he/she attains 60 years.</p> <p><b>Section 19</b> mandates all police officers to undergo <b>periodic training and retraining</b> in basic policing and law enforcement courses as well as specialised courses relevant to law enforcement, investigation and gathering of evidence, human rights, gender issues, prosecution and defence. Also, the IGP, in consultation with the Police Service Commission, shall be responsible for the revision of the training, duration as well as content of police training at least once in every five years.</p> <p><b>Section 20</b> stipulates that police officers shall not be paid a salary below what is payable to officers in other security agencies.</p> <p><b>Sections 21 to 25</b> allows for the appointment of Supernumerary Police Officers for the protection of property, to carry out administrative duties on police premises, and to act as orderlies. They would only be able to act in the police area or division where the property is situated or exclusively with the person/agency they are attached to protect. Their salaries, allowances, entitlements, cost of uniform, accoutrements and ceremonial dress of the supernumerary officer are to be paid by the private company or government department requesting the service of such officer. <b>Section 21(7)</b> stipulates that the supernumerary police shall be a unit under the Police Force.</p>

## Comments

The provisions in the Act, which gives powers to the police to recruit constables and recruit cadets has been voided by the Court of Appeal. It has been argued that this power belongs to the Police Service Commission by virtue of **section 6(1) of the Police Service Commission Act** which states the Commission shall be responsible for the appointment and promotion of person to offices in the Nigeria Police Force (NPF) and Paragraph 30, Part 1, Third Schedule of the Constitution which states that the Commission shall have power to appoint person to offices in the NPF.

There had been contestation between the Police and Police Service Commission over who exercises the power to recruit **constables into the Force and cadets into the Police Academy** with a debate ensuing on the difference between the words "recruitment" and "appointment." The Federal High Court ruled in favour of the Police by saying that recruitment (as used in the Act) is different from appointment (as used in the Constitution). This position was however reversed by the Court of Appeal who ruled that per the Constitution, the power to appoint persons into offices in the Nigeria Police, including constables and cadets, resides with the Police Service Commission. *(As of the date of this publication, the Police has filed an appeal to the Supreme Court and the matter is still under review.)*

The training and specialisation requirements in the Act are aimed at addressing the lack of specialisation and what many term the "general duty policy" of the Police. The 2012 CSO Panel on Police Reform found that with the exception of a few, upon enlistment, officers are made to carry out all duties, irrespective of their areas of specialisation. The Panel further observed that "the lack of career trajectory in the NPF has turned most police officers in Nigeria into 'jacks of all trades' who in the end, are not able to master any." The provision on periodic training and retraining and revision of training content by the IGP mandates a review at least once every 5 years. The issue of specialisation is also addressed in the Act with a provision being made to recruit professionals from a range of disciplines.

## Police Act 1943

## Police Act, 2020

### Part VI- Financial Provisions

**Section 26(1)** creates a general fund for the Police that includes annual budgetary allocations, contributions from States, aid from international bilateral and multilateral organisations as well as sums generated by the Police. *(This is different from the Police Trust Fund)*. It mandates States contributing to the Police to keep record of contributions made and for the Police to utilised same for their specified use, if provided.

**Section 27** states that the funds should be used for cost of administration and operations, payment of salaries, allowances, pensions and other retirement benefits, investments and trainings.

**Section 28(3)** provides for bottom-up budgeting that takes in input from the Force Headquarters, Zonal Headquarters, State Commands, Area Commands and Divisional Commands on their budgetary needs.

**Sections 29 and 30** require the Police Force to submit Annual Reports and Audited Accounts to the Minister in charge of Police Affairs.

\* *Funding Provisions were not captured in the old law.*

## Comments

The Old Police Act did not contain financial or funding provisions for the Police. This was not in line with general establishment laws that create a basis for the National Assembly to appropriate for them. Similar provisions exist, for instance, in Part V of the Police Service Commission Act 2001, Part V of the Nigeria Security and Civil Defence Corps Act 2003 and Part VI of the Economic and Financial Crimes Commission Act 2004, to name a few. This new Act remedies this by establishing an appropriate funding framework for the Police Force in line with what is obtainable in other Federal Government institutions e.g. annual budgetary allocations, aids and grants, other funding sources, authority for making expenditures etc. It should be noted that this is different from the Nigeria Police Trust Fund Act, which is for a specific purpose and has a termination date.

This point has been the subject of significant discourse as it has been found that the state of funding the NPF is challenging at different levels, including “low budgetary allocation, incomplete release of budgeted funds and late release of funds, all of which make planning in the NPF a difficult enterprise.” The donation of funds and equipment to the NPF by State, local governments and private bodies, without record keeping or accountability have been severely criticised as giving room to duplication, corruption, waste and lack of accountability. This Act addresses this by requiring States to keep records of monies donated and for them to specify the purpose to which they want such monies applied to.

This Act also introduces tools in furtherance of the principle of financial accountability such as proper keeping of records, compliance with statutory rules on accounting and audit just as is obtainable with other public institutions, and “bottom up budgeting” which requires input from each formation to ensure that funding is spread equitably. This is particularly seen in the requirement for the Police to take inputs from the Force headquarters, as well as the Zonal, State, Area and Divisional commands on their budgetary needs. It aims to address the problem of the over-centralised nature of Police budgeting where budgets for lower level commands are drawn up at the Headquarters without adequate recourse or input from the former on their specific budgetary needs.

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<p><b>PART IV – Powers of Police Officers</b></p> <p>-Section 23 gives police officers prosecutorial powers, but subject to the Attorney General’s power to institute and take over criminal proceedings.</p> <p>-Section 24 provides for cases where an officer can arrest without warrant. It further references arrest without warrant provisions in the Criminal Procedure Act (CPA) (now repealed and overtaken by the Administration of Criminal Justice Act- ACJA) 2015.</p> <p>-Section 25 provides for power of an officer to arrest without having a warrant in his position, service of summons by an officer (section 26) and bail of persons arrested without warrant (section 27).</p>	<p><b>PART VII – Powers of Police Officers</b> <b>PART VIII - Warrants</b></p> <p>This part covers powers a police officer can exercise and procedural safeguards in the exercise of these powers. The Act attempts to update the Police Act by restating provisions already provided under to the Administration of Criminal Justice Act (ACJA) 2015. Provisions in Part II, III and IV of ACJA 2015 are replicated in these Parts. (This is to ensure general application of same throughout the country as ACJA needs domestication in the States.)</p> <p><b>Section 31</b> gives the Police powers to investigate and <b>section 32</b> empowers them to arrest. In arresting the person a police officer should touch or confine the suspect unless there is submission to custody by word or action (Section 33). Also, restraint may not be used except where there is reasonable risk of violence or escape, for the safety of the suspect or by order of court (Section 34).</p>

<p>-<b>Section 25</b> provides for power of an officer to arrest without having a warrant in his position, service of summons by an officer (<b>section 26</b>) and bail of persons arrested without warrant (<b>section 27</b>). The bail provisions also reference the CPA and require the Police to take a suspect before a magistrate as soon as possible, or otherwise, release the person on bail.</p> <p>-<b>Section 28</b> confers powers on a superior police officer to instruct any officer to search premises (with or without a warrant) for property believed to be stolen and to seize same. There is no threshold for such belief or suspicion nor requirement to show probable cause.</p> <p>-<b>Section 29</b> confers power to detain and search suspected persons on reasonable suspicion, but without a clear procedure for so doing or safeguards.</p> <p>-<b>Section 30</b> provides for powers to take fingerprints, impressions and photographs, which includes a requirement for the Police to obtain the Order of a magistrate where a person refuses to subject himself to such records being taken, as well as, a provision requiring that the records be destroyed or given to a suspect who has been discharged or acquitted.</p>	<p><b>Section 36</b> requires that a person cannot be arrested in place of a suspect.</p> <p><b>Section 38</b> provides that a police officer can arrest a suspect without a warrant on certain grounds e.g. where there are reasonable grounds of suspecting the person committed an offence, the person has committed the offence in the presence of the officer, or obstructs the officer's ability to execute their duty, etc. It expressly states that if none of the stated conditions are met, a person cannot be arrested without a warrant.</p> <p><b>Section 39</b> provides for arrest without warrant by a private person or citizen and <b>section 40</b> states the procedure that the arresting person/private citizen should follow after the arrest.</p> <p><b>Section 43</b> states that an arrested person must be taken to a police station immediately and the police officer should complete the record of the person's arrest including the offence, contact details, details of identification etc. (<b>section 44</b>)</p> <p><b>Section 46</b> requires that the arresting police officer completes an inventory of items recovered the suspect and return same if it is not connected to a crime or offence.</p> <p>The IGP and every agency authorised to make arrest are required to remit a quarterly record of arrests to the AGF (<b>section 47</b>)</p> <p>A Police officer has the power to search (<b>section 48</b>), they also have the power to stop and search any person or vehicle where there are reasonable grounds for suspecting the person or vehicle is carrying stolen property, an unlawful article, involved in serious violence, carrying a certain type of article at an unusual time or in a place where burglaries have taken place recently (<b>section 49</b>).</p> <p>Article in this case means an offensive weapon i.e. one that can cause injury to person or intended for use by the person who possesses it, or an article made or adapted in the course of the offence such as burglary, theft, receiving stolen property or involving fraud or dishonesty.</p> <p>Sections 50-56 contain provisions on search warrant safeguards i.e. provisions on conditions to be satisfied before a search warrant can be issued e.g. the grounds for the warrant, the premises to be searched, etc.</p> <p>Particularly, Section 50 provides for actions to be carried out by a police officer before a search occurs i.e. the Officer must be in uniform and wear a visible Police identity card and must inform the person in charge of the vehicle of his/her name, police station, object and grounds of the search.</p>
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It adds however in **Section 54** that certain personal attributes shall not be grounds for reasonable suspicion, including:

- a person's colour, age, hairstyle or manner of dress;
- previous conviction for possession of an unlawful article; or
- stereotyped images of certain persons or groups as more likely to be committing offences.

**Section 56** mandates the Officer to record details of the search and provide a copy to the person to be searched while **Section 57** provides for a National Search Record Form containing details of a search.

**Section 58** makes provisions on search warrant safeguards i.e. provisions on conditions to be satisfied before a search warrant can be issued e.g. the grounds for the warrant, the premises to be searched, etc.

**Section 59** provides for issue and execution of search warrants and its endorsement upon execution.

**Section 60** states that a suspect may make a statement, and this can be done in the presence of their legal practitioner of legal aid personnel or civil society member and an interpreter where necessary.

**Section 62** provides for a person arrested to be brought before a court within 24 hours. A suspect may be discharged on entering into a recognisance or bail bond, with or without sureties for a reasonable amount.

**Section 66** says that Police Officers who are legal practitioners can prosecute in Court. It however qualifies the power of prosecution in section 23 of the old Act by subjecting the police officer's power to conduct prosecutions to relevant criminal procedure laws in force in a State regarding prosecution by "non-qualified legal practitioners." It further requires that every Police Division have at least one police officer that is qualified to practice as legal practitioner.

**Section 68** provides for powers to take fingerprints, photographs, measurements.

**Note:** Power to take fingerprints etc. is contained in section 15 of ACJA. Unlike ACJA, the Act however further requires the Police to store such fingerprint impressions and measurements in a retrievable format and hand over to a suspect who has been discharged or acquitted. It also requires a police officer to approach a court to compel a suspect in lawful custody who refuses to submit him/herself for such records to be taken.



## Comments

This is one of the most significant parts of the Act as it addresses police powers vis-à-vis human rights and due process safeguards. The power to search and arrest under the old law was not detailed and contained no procedural safeguards. The Administration of Criminal Justice Act, 2015, however makes detailed provision on these. Parts 3 (section 35-49) and part 18 (sections 143-157) of ACJA contain provisions on arrest and search warrants while Part 19 (sections 158 to 188) contains detailed provisions on bail and recognisance. Unfortunately, ACJA does not have general application across the country and is yet to be domesticated in some States. The Act adopts the portions of the ACJA and in some instances adds to or improves on it so as to harmonise the provision affecting the police and make it universally applicable across Nigeria. This is seen in the power to arrest without warrant, the introduction of search warrant safeguards and power to take fingerprints.

In many of the provisions, the powers of the police are subject to set conditions and this is seen in the execution of a search where the Act stipulates procedures to be followed before, during and after a search. The Act also re-emphasises a suspect's right to silence and option to make a statement, which can be recorded in an electronic format.

In this Act, the power to arrest a person without a warrant is subject to limited circumstances as stated in **section 38**. It combines provisions from section 18 ACJA and some provisions from the UK Police and Criminal Evidence Act (PACE). It then goes on in section 38(2) to say that no person shall be arrested without warrant except in the circumstances listed in the Act. This power is however not absolute. For instance, the Act requires 'reasonable suspicion' and states clearly what it is not e.g. hairstyle, dressing, etc. It is worth noting that reasonable suspicion is also referenced in section 35(1)(c) of the Constitution.

The Act goes further to provide that were a warrant has been gotten it must be shown to the suspect within 24 hours of their arrest (**section 78**). Overall, the new Act does not expand police powers but strives to balance exercise of discretion with personal constitutional rights by including procedural safeguards aimed at upholding these rights.

The provision in **section 66 (1)** which allows only Police Officers who are legal practitioners to prosecute is a new and commendable one. However the provision in **section 66 (2)** which says that a Police Officer may prosecute offences a "non-qualified legal practitioner" can prosecute subject to State criminal procedure laws, may require judicial interpretation as a legal practitioner in the Nigerian context is considered to be already qualified to practice. In other words, the words "non-qualified" is meaningless. If the intention of this provision is to allow non-lawyers to prosecute offences, and by implication, allow ordinary police officers to continue their practice of prosecution in the Magistrate Courts, then it is not clearly stated as such and can be contested. Furthermore, it has been said that police officers are not listed as prosecutors in the Administration of Criminal Justice Laws adopted by many States, thus the provision may be redundant and rightly so. A further amendment of the Act or judicial interpretation would be needed to clarify this provision.

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<p>Part VI- Miscellaneous provisions Section 33 sets up the Police reward Fund to be made up of:</p> <p>(a) all monies forfeited by order of a superior officer on members of the police for offences against discipline;</p>	<p>PART XI –Establishing of the Police Reward Fund, Etc. ad Other Provisions relating to the Police Force</p> <p>Section 91 retains the Police Reward Fund and sources of funding but amends the use of the funds as follows:</p> <ul style="list-style-type: none"><li>- to reward members of the police for exemplary services;</li><li>- such other purpose as may be determined, from time to time, by the Nigerian Police Council.</li></ul>

<p>(b) all fines levied for assaults on members of the police;</p> <p>(c) one third of any fees paid by members of the public in respect of extracts from reports made by the police;</p> <p>(d) one third of any fees paid in accordance with Standing Orders for the services of police officers who would otherwise be off duty;</p> <p>Purpose of the fund:</p> <p>(a) to reward members of the police for extra or special services</p> <p>(b) for procuring comforts , conveniences or advantages for members of the Force which are not authorised to be paid for out of moneys provided by the Federal Government;</p> <p>(c) for payment of ex gratia compassionate gratuities to widows or children of deceased members of the Force;</p> <p>(d) for making ex gratia payments towards the funeral expenses of any member of the police who dies in the service of the Force.</p> <p><b>Section 36</b> expressly prohibits police officers from holding appointment or engaging in any private business or trade without the written consent of the Nigeria Police Council.</p>	<p>The use of the funds is subject to the rules for the time being in force under <b>section 23 of the Finance Control and Management Act</b> and shall be applied and disbursed at the direction of the Inspector General, based on criteria laid by the Nigeria Police Council.</p> <p><b>Section 92</b> introduces a new provision on recognition and commendation for gallant and exemplary service. This caters for Police officers who have distinguished themselves with their outstanding performance in the discharge of their duties. They shall be duly honoured and recognised for their gallant and exemplary service by the Police Force either by recommendation for national honours; through public presentation of awards and certificates of exemplary service from communities and civil society; or by the police setting aside a day or week in every year to celebrate outstanding performance by its officers and to remember their fallen heroes.</p> <p><b>Section 93</b> states that where a police officer is found to have been indebted an amount not exceeding one-third can be deducted from his remuneration to offset the indebtedness.</p> <p><b>Section 94</b> notes that the remuneration of a police officer shall not be withheld on account of any debt or liability, which he may have incurred before being appointed to the Police.</p> <p><b>Section 95</b> amends the existing provision to say that while still in service, a police officer shall not directly be involved in managing and running any private business or trade except farming.</p>
<p><b>Comments</b></p> <p>Reward and Recognition in the Police to improve officers' morale is one of the recommendations made by the several Reform Panels. The CSO Panel found that there is no system of rewarding police officers for outstanding service; but rather, there is a focus on national awards to the Police leadership, which often neglects frontline police officers. The Panel therefore recommended that deserving officers of lower rank should be prioritised. This recommendation was adopted in the Act.</p> <p>On disbursement of the reward fund, it is important to highlight it is to be administered under <i>the Finance Control and Management Act of 1958</i>. By this section the Minister is given the power to authorise disbursements from this Fund and approved by resolution of the National Assembly. This introduces checks and balances and accountability protocols aimed at proper utilisation of the funds and to avoid corruption risks.</p> <p>The Police Council can prescribe additional uses of the reward fund, the Police service Commission is to set criteria for its application, while the IGP is responsible for disbursement.</p>	

Police Act 1943	Police Act, 2020
<p><b>Part VII - Offences</b></p> <p>This part lists a number of offences that may be committed by police officers while on duty, and they include:</p> <ul style="list-style-type: none"> <li>• starting a mutiny;</li> <li>• causing or joining in any sedition or disturbance whatsoever;</li> <li>• fails to suppress a riot;</li> <li>• having knowledge of a mutiny or sedition and not informing his superior officer promptly;</li> <li>• strikes his superior officer in the execution of his duty;</li> <li>• deserts or aids or abets the desertion of any constable from the Force; or</li> <li>• provides false information on enlistment of a previous conviction for a criminal offence or of government employment</li> <li>• It further provides for a number of offences that may be committed against police officers while on duty, including: <ul style="list-style-type: none"> <li>• Assaulting a police officer; and</li> <li>• Refusing to aid a police officer who is being assaulted.</li> </ul> </li> </ul> <p>Other listed offences include impersonation of a police officer, obtaining admission into the Force by fraud.</p>	<p><b>PART XII - Offences</b></p> <p>The Act retains these offences but includes as an offence, the taking of intoxicating liquor or using psychotropic substances while on duty. This offence extends to persons who sell such substances to an officer, harbours such officer or tries to induce the officer with money, gift, spirits, liquors, psychotropic substances or stimulants to commit a breach of his duty. Such person shall be guilty of an offence and liable on conviction to a fine of fifty thousand naira – <b>Section 100</b></p> <p><b>Section 96 (2)</b> adds that in discharging his duty, a police officer shall not discriminate against any Nigerian, based on the person’s place of origin; gender, socio-economic status, ethnic, political or religious affiliation; or any form of disability; and shall not use such language, or act in such a way that suggests a bias towards a particular group.</p> <p><b>Section 103</b> provides that police officers are not exempted from the ordinary course of law or other laws, meaning that officers can still be prosecuted for offences not listed in this Act.</p>
<p><b>Comments</b></p> <p>The offences provided under the Act cover a range of actions that a Police Officer may be held criminally liable for. Under this list, a Police Officer is to abide by all laws of the land and can be prosecuted for offences in other laws. In essence, it mandates that police officers be law abiding citizens and enshrines the rule of law principle of no one being above the law.</p> <p>It should be noted that the Police Regulations accompanying the Act contain more detailed provisions on police offences, misconduct and discipline.</p>	

Police Act 1943	Police Act, 2020
<p><b>Part XIV- Community Policing Committee</b></p> <p>This is a new part establishing community policing committees in the States and divisions; sub-committees in the police divisions; and state community police boards to maintain partnership between the community and the Police, promote communication, improve rendering of police service, promote co-operation and improve transparency and accountability in the provision of police services. (Sections 113- 116).</p> <p>The duties of these committees include assisting the Police in crime detection and prevention, conflict resolution, criminal intelligence gathering, local patrol, working with the community, schools, and young people, business communities, religious bodies, cultural groups, community-based associations, recreational centres and hospitality businesses toward crime control (Section 117)</p> <p>Section 117 (3) says that the IGP may vary community policing strategies according to the needs of the communities involved and the cultural context.</p> <p>The committees are to be made up of representatives of the local communities in the States. They shall consist of representatives of the Police Force and members of the local community in the States. Committee members are to act in a voluntary capacity (Section 119)</p>	
<p><b>Comments</b></p> <p>Community Policing refers to collaboration and interactive partnerships between law enforcement agencies i.e. the police, their officers, and the people they serve. It is a concept that has gained popularity although it is understood in different ways by stakeholders. Community support and participation are critical to improving police performance, fighting crime and obtaining public ownership of police reform programs.</p> <p>The MD Yusufu Police Reform Panel Report and Dan Mandami Panel Report underscored the need to adapt community policing to suit Nigeria’s peculiarities and for the Government to formulate a community policing policy and framework for the country, considering Nigeria’s diverse socio-cultural and religious environment. They also recommended that all police officers should undergo training in the basic philosophy and practice of Community Policing. Both panels further recommended that Community Policing Committees should be established in every local government and divisional commands comprising police officers, local government officials, traditional and community leaders to periodically meet and review priorities and performances. This model is adopted in this Act with the establishments of committees and sub-committees at the State and Divisional levels.</p> <p>This could be seen as a channel for sparking the culture of community involvement in policing to prevent crime and an attempt to foster departure from the traditional reactive and incidence-based responses policing. This attempt notwithstanding, experts have stressed the need for community policing to be a community centred initiative, not one led by the police. Experts have also enforced the need for building of knowledge of this concept among officers right from recruitment. It is important to note that this should not be misconstrued as setting up community-based policing structures where communities often set up their own security initiatives e.g. vigilante or regional security groups. This is also different from the State Police being proposed by many.</p> <p>Some of the features of community policing include that officers must be responsive to community problems and engage in problem solving, the rank and file must have greater autonomy in making decisions and that lower ranking officers who are on the field and directly interact with citizens be given a sufficient amount of discretion to encourage innovative solutions to problems of neighborhood crime and disorder, not merely being driven by orders from above. Furthermore under the community policing model, police effectiveness and accountability is not measured by the number of arrests, but the quality of service and engagement with local communities in maintaining public safety.</p>	

Police Act 1943	Police Act, 2020
<p><b>Part XV- Police Public Complaints and Discipline</b></p> <p>This is a new part giving legal backing to the Police Complaints Response Unit (<b>section 131</b>). The Unit is to receive complaints or information of police officer misconduct from the public or from fellow police officers, complaints of conduct that resulted in death, serious injury or gross human rights violations, as well as any complaint of a police officer committing a criminal offence or incident of professional misconduct (<b>section 133</b>).</p> <p><b>Section 134</b> provides that after the investigation, the Unit is to send a copy of the report to the appropriate police oversight authority for disciplinary action, if needed. Where a false report is given the person making the complainant may be charged under the relevant laws.</p>	
<p><b>Comments</b></p> <p>Over the years, citizens have had incidents and hostile encounters with police officers, often culminating in human rights abuses and even death. The Police Complains Response Unit was established in 2015 by former IGP Solomon Arase to receive and quickly process complaints from members of the public on Police misconduct and meant to be an internal oversight mechanism for the Police.</p> <p>Before this time, there were efforts to amend the Police Act to provide for a complaints’ response unit, but as the law had yet to be amended, the unit was eventually established independent of the Act. This provision in the 2020 Act, now codifies this unit and goes on indicate steps to be taken after an investigation as well as a requirement for reports to be forwarded to the Police Service Commission (external oversight body) who is responsible for Police Discipline.</p> <p>This Part lays down guidelines for the kinds of complaints that can be received which may be even by a police officer against a fellow police officer and indicates a 21 days requirement for resolution of investigations from date of complaint. This could be seen as an attempt to contribute to an improvement in the perception of the police as being people friendly with service to citizens at its core.</p>	

Police Act 1943	Police Act, 2020
<p><b>PART VIII- Regulations and Standing Orders</b></p> <p><b>Section 46</b> provides that the President may make regulations on the recommendation of:</p> <ul style="list-style-type: none"> <li>• the Nigeria Police Council with respect to the policy, organisation and administration of the Force, including establishments and financial matters, other than pensions</li> <li>• the Police Service Commission with respect to appointments to offices in the Force, promotion, transfer, dis missal and disciplinary control of officers</li> </ul> <p><b>Section 47</b> empowers the President to make standing orders for the good order, discipline and welfare of the Force after consultation with-</p>	<p><b>PART XVII- Regulations and Standing Orders</b></p> <p>The Act provides that:</p> <ul style="list-style-type: none"> <li>• The Minister supervising the Police (no longer the President) is empowered to make Regulations on policy, organisation, and administration of the police, including establishments and other financial matters except pensions – on recommendation of the IGP. The Minister is also empowered to make Regulations on the recommendation of the Police Service Commission, on matters relating to appointment, promotion and discipline in the Force. <b>Section 138 (1)</b></li> <li>• The Minister is mandated to review the regulations regularly. <b>Section 138 (2)</b></li> </ul> <p>Recall that the Inspector General of Police is empowered to make Standing Orders relating to operational control of the police. <b>Section 16 (1)</b> while the Police Service Commission is empowered to make Standing Orders for the appointment, promotion, and discipline of members of the Police. <b>Section 16 (3)</b></p>

<ul style="list-style-type: none"> <li>the Nigeria Police Council with respect to the policy, organisation and administration of the Force, including establishment and financial matters other than pensions</li> <li>the Police Service Commission with respect to any matter relating to appointments to offices in the Force, promotion, transfer, dismissal and discipline of members of the Force.</li> </ul> <p>The Police Service Commission, with the approval of the President, may make such standing orders as they may think fit and proper with respect to any matter relating to the duties and operational control of the Force.</p>	<p><b>Other provisions in this part:</b></p> <ul style="list-style-type: none"> <li>Prohibition of gender discrimination within and outside the Police Force – <b>section 135</b></li> <li>Protection of junior officers for disobeying unlawful orders by senior officers and empowerment of the Police Service Commission to discipline same – <b>section 137</b></li> </ul>
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**Comments**

The Police Regulations is a key component of the Police Act as it contains more detailed provisions on the administration of the Police – even more detailed than the Principal Act. The existing Police Regulations entered into force in 1968 and is yet to be reviewed. The old Act situated the responsibility for the review of the Regulations on the President, which is not in line with modern practice on enactment or even accountability. The new Act now mandates that the Regulations be reviewed regularly by the Minister in charge of Police Affairs. This is meant to reinforce another layer of civilian oversight of the police. The introduction of this section now creates a basis for the comprehensive review of the Police Regulations, which has not been done since 1968.

At present, the Regulations contain provisions that are discriminatory to women police officers. Examples are provisions that discriminate against women police officers by directly or indirectly excluding them from certain aspects or types of training, prohibiting them from getting married without written consent of their Commissioner of Police, and discharging of pregnant unmarried police officers etc. These provisions are in conflict with constitutional provisions against discrimination and section 135 of the 2020 Act, which prohibits gender discrimination. With the new Act, these provisions and other provisions such as Regulation 121 of the Police Regulations, which provides for certain general duties of women police officers e.g. investigation of sexual offences, presence where women or children are being interviewed by male officers etc. are now inconsistent with the Principal Act and would need to be deleted.





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## **About PLAC**

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.

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