

Police Act

CHAPTER 31 OF THE ACTS OF 2004

as amended by

2007, c. 10, s. 5; 2010, c. 12, s. 2; 2010, c. 68; 2011, c. 69;
2014, cc. 25, 55, 56



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**An Act Respecting
 Policing in Nova Scotia**

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Short title

1 This Act may be cited as the *Police Act*. 2004, c. 31, s. 1.

Interpretation

2 In this Act,

- (a) “advisory board” means a police advisory board established pursuant to Section 57;
- (aa) “agency” means the Provincial Police, the Royal Canadian Mounted Police, a municipal police department or another police department;
- (b) “board” means a municipal board of police commissioners and includes a joint board;
- (c) “chief officer” means the chief of police of a police department and includes an officer acting as chief of police;
- (d) “complaint” means any communication received from a member of the public in writing, or given orally to the chief officer or the chief officer’s delegate and reduced to writing and signed by the complainant, that alleges that a member of a department breached the code of conduct or alleges the failure of the department itself to meet public expectations;
- (e) “Complaints Commissioner” means the Nova Scotia Police Complaints Commissioner appointed pursuant to this Act;
- (f) “council” means the council of a municipality;
- (g) “department” means, when used in reference to police, the necessary personnel, equipment, furnishings, vehicles and facilities;
- (ga) “Director” means the Nova Scotia Civilian Director appointed under this Act;
- (h) “Minister” means the Minister of Justice;
- (i) “municipality” means a municipality as defined in the *Municipal Government Act*;
- (j) “Provincial Police” means the Nova Scotia Provincial Police;
- (k) “Review Board” means the Nova Scotia Police Review Board established pursuant to this Act;
- (l) “serious incident” means a death, serious injury or sexual assault or any matter that is determined under this Act to be in the public interest to be investigated;
- (m) “Serious Incident Response Team” means the team established by this Act and includes the Director and investigators and other staff appointed to the Team. 2004, c. 31, s. 2; 2010, c. 68, s. 1; 2014, c. 25, s. 1.

MINISTER OF JUSTICE

Administration of justice

3 The Minister is the constituted authority for the administration of justice within the Province and nothing contained in this Act shall be construed to change or alter this responsibility. 2004, c. 31, s. 3.

Supervision and management of Act

4 The Minister has the general supervision and management of this Act and the regulations. 2004, c. 31, s. 4.

Duties of Minister

5 (1) The Minister shall ensure that an adequate and effective level of policing is maintained throughout the Province.

(1A) The Minister shall approve uniform training programs and guidelines for police officers who work with individuals with mental disabilities.

(2) The Minister shall promote the preservation of peace, the prevention of crime, the efficiency of police services and the improvement of police relationships with communities within the Province.

(3) For the purpose of subsections (1), (1A) and (2), the Minister may

(a) issue a directive or a standard operating or administrative procedure to a police department or to the Serious Incident Response Team;

(b) require a police department, board or advisory board or the Serious Incident Response Team to develop a directive or a standard operating or administrative procedure.

(3A) Where the Minister issues a directive or a standard operating or administrative procedure under subsection (3), the police department or the Serious Incident Response Team, as the case may be, shall comply with it.

(4) The Minister may

(a) exempt, by regulation, any part of the Province from the operation of all or any provision of this Act or the regulations; and

(b) make any arrangements, regulations or agreements the Minister considers proper for the policing of that part of the Province exempted pursuant to clause (a).

(5) The exercise by the Minister of the authority contained in subsection (4) is regulations within the meaning of the *Regulations Act*. 2004, c. 31, s. 5; 2010, c. 12, s. 2; 2010, c. 68, s. 2.

Powers of Minister

6 The Minister may

(a) liaise, consult and co-operate with any similar body in Canada to encourage uniformity in procedures, proceedings, standards and any other matters relating to police services;

- (b) establish and maintain a central information and statistics service and a system of research studies for the purpose of aiding police departments in the Province;
- (c) consult with and advise boards, advisory boards, employers of special constables and other police authorities and chief officers on all matters relating to police and police matters;
- (d) provide to boards, advisory boards and other police authorities and chief officers information and advice respecting the management and operation of police departments, techniques in handling special problems, training and other information the Minister considers to be of assistance;
- (e) determine the adequacy and effectiveness of police services provided in a municipality through a system of audits, reviews and inspections and any other means the Minister determines to be appropriate;
- (f) assist in co-ordinating the work and efforts of police departments in the Province;
- (g) develop, approve or deliver police training;
- (h) assist in the development of police education at the post-secondary school level;
- (i) establish programs and methods designed to create between the public and the police a mutual understanding of police functions, duties and responsibilities and to promote police relationships with the news media and the community. 2004, c. 31, s. 6.

Minister may order investigation into policing

7 (1) Notwithstanding anything contained in this Act, the Minister may order an investigation into any matter relating to policing and law enforcement in the Province, including an investigation respecting the operation and administration of a police department.

(2) An investigation pursuant to subsection (1) shall be conducted by such person and in such manner as the Minister may specify in the order and that person shall provide the Minister with

- (a) a written report; and
- (b) recommendations, where appropriate,

within the time frame specified by the Minister.

(3) The Minister may appoint a person with technical or other specialized knowledge to assist the person conducting an investigation pursuant to subsection (1).

(4) Upon receipt of a report pursuant to subsection (2), the Minister may take whatever action the Minister considers appropriate to implement any recommendations provided pursuant to clause (2)(b).

(5) A person conducting an investigation authorized by this Section has all of the powers and immunities of a peace officer during the investigation and any proceedings relating to the matter under investigation. 2004, c. 31, s. 7.

Minister may direct municipal department members

8 (1) The Minister may, at any time, direct a member of a municipal police department to serve in any part of the Province outside the boundaries of the area for which the member has been appointed.

(2) A municipality shall be reimbursed by the Minister for the reasonable costs incurred by the municipality as a result of the direction under subsection (1), including the salary and expenses of any member of the police department serving outside the municipality.

(3) The municipality in which a member of a police department is serving at the direction of the Minister shall reimburse the Minister for the costs incurred by the Minister pursuant to subsection (2) and such costs are a debt due by the municipality to the Province and may be recovered by the Minister with costs by action in any court of competent jurisdiction or may be deducted from any grant payable out of Provincial funds to the municipality. 2004, c. 31, s. 8.

Minister may assume administration in a municipality

9 (1) The Minister may assume the direction of police administration within a municipality or remove the investigation of a crime from a municipality.

(2) Where the Minister assumes the direction of police administration within a municipality or removes the investigation of a crime from a municipality pursuant to subsection (1), the Minister shall notify, either verbally or in writing, the chief officer and the chair of the board, where there is one, or, where none, the mayor or warden of the municipality involved.

(3) Where the Minister removes the investigation of a crime from a municipality, the municipal police department shall provide all possible assistance to and carry out the orders of the agency charged by the Minister with the investigation of the crime including delivering, upon request, all warrants, papers, exhibits, photographs and other information or records in its possession or under its control dealing with the crime that is the subject of the investigation.

(4) Where the Minister removes the investigation of a crime from a municipality, the Minister may assign that investigation to an agency. 2004, c. 31, s. 9; 2014, c. 55, s. 1.

Facilities and assistance for Complaints Commissioner and Review Board

10 The Minister shall provide facilities and any clerical or other assistance required by the Complaints Commissioner and the Review Board and the

Complaints Commissioner may appoint a person to act as executive officer. 2004, c. 31, s. 10.

NOVA SCOTIA POLICE COMPLAINTS COMMISSIONER

Nova Scotia Police Complaints Commissioner

11 (1) The Governor in Council shall appoint a person to be the Nova Scotia Police Complaints Commissioner.

(2) The Complaints Commissioner holds office for a term not exceeding three years and may be re-appointed.

(3) The Complaints Commissioner shall be paid such salary or remuneration and be entitled to the necessary expenses as determined by the Governor in Council. 2004, c. 31, s. 11.

Duties of Commissioner

12 (1) The Complaints Commissioner shall

(a) attempt to resolve complaints referred to the Complaints Commissioner under this Act; and

(b) perform the duties assigned to the Complaints Commissioner by this Act, the regulations, the Minister or the Governor in Council.

(2) The Complaints Commissioner is a member of the Review Board.

(3) For greater certainty, the Complaints Commissioner shall not sit as a member of a panel of the Review Board conducting a hearing into a complaint that has been dealt with by the Complaints Commissioner under this Act. 2004, c. 31, s. 12; 2014, c. 56, s. 1.

NOVA SCOTIA POLICE REVIEW BOARD

Nova Scotia Police Review Board

13 (1) There is hereby established a board to be known as the Nova Scotia Police Review Board composed of not fewer than three persons appointed by the Governor in Council.

(2) The Governor in Council shall designate one of the members of the Review Board to be the Chair of the Review Board and another to be the Vice-chair of the Review Board.

(3) Notwithstanding subsection (2), the Governor in Council may designate two members of the Review Board to be co-chairs of the Review Board.

(4) Each person appointed as a member of the Review Board holds office for a term not exceeding three years and may be re-appointed.

(5) The Chair or a co-chair of the Review Board, as the case may be, must hold a bachelor's degree in law or a degree that the Governor in Council determines to be equivalent. 2004, c. 31, s. 13; 2014, c. 56, s. 2.

Oath of office

14 Each member of the Review Board shall take an oath of office or affirmation as prescribed by regulation. 2004, c. 31, s. 14.

Remuneration and expenses

15 Members of the Review Board shall be paid the necessary expenses incurred by them while engaged in their duties and such salary or remuneration as the Governor in Council determines. 2004, c. 31, s. 15.

Head office

16 The head office of the Review Board shall be at such place in the Province as may be designated from time to time by the Governor in Council. 2004, c. 31, s. 16.

Execution and judicial notice of documents

17 All orders, consents, certificates and other documents issued or made by the Review Board shall be signed by the Chair or any member of the Review Board and, where purporting to be so signed, shall be judicially noticed without further proof. 2004, c. 31, s. 17.

Functions and duties of Review Board

18 The Review Board shall perform the functions and duties assigned to it by this Act, the regulations, the Minister or the Governor in Council and, without limiting the generality of the foregoing, the Review Board shall

- (a) conduct investigations and inquiries in accordance with this Act; and
- (b) conduct hearings into complaints referred to it by the Complaints Commissioner in accordance with this Act or the regulations. 2004, c. 31, s. 18.

Minister may direct Review Board

19 (1) The Minister may direct the Review Board to investigate, inquire into and report to the Minister upon any matter relating to

- (a) the extent, investigation or control of crime;
- (b) the enforcement of law;

(c) the operation and administration of a police department,

and the Minister shall define the scope of the inquiry in the direction.

(2) At the request of the majority of the members of a board or a council, the Minister may direct the Review Board to inquire into and report to the Minister upon any matter referred to in subsection (1) under the jurisdiction of the municipality. 2004, c. 31, s. 19.

Power of inquiry by Review Board

20 (1) The Review Board is authorized and empowered to hold hearings relating to the exercise of the powers and the discharge of the duties and functions assigned to the Review Board by this Act, the regulations, the Minister or the Governor in Council.

(2) For the purpose of any hearing held by the Review Board pursuant to this Act, the Review Board has and may exercise all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2004, c. 31, s. 20.

Counsel for Review Board

21 The Minister may, upon the request of the Review Board, appoint counsel to assist the Review Board in an inquiry or investigation pursuant to this Act. 2004, c. 31, s. 21.

Opportunity to appear

22 Every person likely to be directly affected by an inquiry under this Act shall be afforded a reasonable opportunity to appear and be heard either in person or through counsel. 2004, c. 31, s. 22.

Payment of costs by municipality

23 (1) Where an inquiry is made at the request of a board or council, unless the Minister otherwise directs, the municipality shall pay the cost of the investigation or inquiry, or both, including the cost of reporting and transcribing evidence and reasonable legal fees, as determined by the Review Board in accordance with the regulations, for persons likely to be directly affected by the investigation or inquiry and witness fees incurred by those persons.

(2) Where an investigation or inquiry is made at the direction of the Minister or on a motion of the Review Board with the concurrence of the Minister, the cost of the investigation or inquiry, or both, including the cost of recording and transcribing the evidence and reasonable legal fees, as determined by the Review Board in accordance with the regulations, for persons likely to be directly affected by the investigation or inquiry and witness fees incurred by those persons shall be paid out of the Consolidated Fund of the Province. 2004, c. 31, s. 23.

Implementation notwithstanding agreement

24 The findings, decisions and recommendations made by the Review Board in respect of an inquiry or investigation conducted pursuant to this Act may be implemented notwithstanding any provision in a contract or collective agreement. 2004, c. 31, s. 24.

Report of investigation

25 The Review Board shall make a report of its investigation under subsection 19(2) to

- (a) the Minister; and
- (b) the board of the municipality for which the police department is maintained. 2004, c. 31, s. 25.

Annual report of Complaints Commissioner

26 The Complaints Commissioner shall, within sixty days after the end of each calendar year, file with the Minister a report showing the number and nature of the inquiries and investigations held, the number and nature of complaints and internal disciplinary matters, summaries of the findings made thereon and such other matters as the Governor in Council may direct. 2004, c. 31, s. 26; 2014, c. 56, s. 3.

SERIOUS INCIDENT RESPONSE TEAM

Serious Incident Response Team

26A There is hereby established a Serious Incident Response Team to provide oversight of policing by providing independent investigation of serious incidents involving police in the Province. 2010, c. 68, s. 3.

Director

26B (1) The Governor in Council shall appoint a person to be the Nova Scotia Civilian Director of the Serious Incident Response Team.

(2) A person who is a current or former police officer in any jurisdiction may not be appointed as the Director.

(3) The Director holds office during good behaviour for a term of five years and may be re-appointed for one additional term of five years.

(4) The Director shall be paid such salary and remuneration as the Governor in Council determines.

- (5)** The Director ceases to hold office upon
- (a) expiry of the Director's term of office;
 - (b) resignation in writing to the Minister by the Director;
- or

(c) termination of office by the Minister for cause,
whichever is earlier. 2010, c. 68, s. 3.

Interim Director

26C (1) The Governor in Council may appoint an interim Director for one term not exceeding one year

- (a) when the Director ceases to hold office; or
- (b) if the Director is unable to act.

(2) The Director may, after consultation with the Director of Public Prosecutions, designate a crown attorney to act as an acting Director in place of the Director while the Director is absent or unable for any reason to perform the duties of his or her office and any act done by the acting Director has the same force, validity and effect as if done by the Director.

(3) Where the Director is unable to designate an acting Director, the Minister may, after consultation with the Director of Public Prosecutions, designate a crown attorney to act as an acting Director in place of the Director while the Director is absent or unable for any reason to perform the duties of his or her office and any act done by the acting Director has the same force, validity and effect as if done by the Director.

(4) An acting Director appointed pursuant to subsection (2) or (3) must be

- (a) appointed for a period not exceeding one month; and
- (b) seconded from the public prosecution service to the acting Director's position. 2014, c. 31, s. 2.

Director responsible to Minister

26D The Director is responsible to the Minister for

- (a) the direction of the Serious Incident Response Team and the police officers made available to the Team from agencies for the purpose of assisting the Team;
- (b) the direction of investigations and reporting on serious incidents involving police;
- (c) the administration of the budget of the Team;
- (d) the discharge of other duties as assigned under this Act or the regulations. 2010, c. 68, s. 3.

Investigators

26DA (1) The Governor in Council may, on the recommendation of the Director, appoint investigators as necessary for the purpose of the Serious Incident Response Team.

(2) The investigators shall be paid such salary and remuneration as the Governor in Council determines. 2011, c. 69, s. 1.

Other employees

26E Such other employees as necessary for the purpose of the Serious Incident Response Team may be appointed pursuant to the *Civil Service Act*. 2010, c. 68, s. 3; 2011, c. 69, s. 2.

Agency assistance to Team

26F (1) The Minister may direct a chief officer of an agency to make available qualified police officers and other resources from the agency to the Serious Incident Response Team for the purpose of assisting the Team and the chief officer shall select police officers for that purpose and advise the Director accordingly.

(2) Upon consultation with the chief officer of an agency, the Director may assign police officers selected under subsection (1) from the agency to assist an investigation.

(3) Once a police officer is selected by the Director under this Section, that police officer reports solely to, and is under the sole command and direction of the Director with respect to that investigation but remains the financial responsibility of the agency from which the officer was selected.

(4) No person may perform the role of a team commander or a lead investigator in an investigation relating to a police officer who is a member of the same agency. 2010, c. 68, s. 3.

Powers of Director and investigators

26G The Director and the investigators appointed under Section 26E are peace officers and have all of the powers, authority, privileges immunities set out in subsection 42(1). 2010, c. 68, s. 3.

Agreements

26H (1) The Director may enter into agreements with an agency, the Government of Canada, the government of another province of Canada or a municipality as required to undertake the work of or related to the Serious Incident Response Team.

(2) On the recommendation of the Director, the Minister may enter into agreements with an agency, the Government of Canada, the government of another province of Canada or a municipality to allow the Serious Incident Response Team to provide independent oversight assistance or conduct an investigation. 2010, c. 68, s. 3; 2014, c. 25, s. 3.

Notifying Director of incident

261 (1) A chief officer shall notify the Director as soon as practicable if the chief officer

(a) has reason to believe that an incident may have occurred in which the actions of a police officer may have resulted in the death, serious injury or sexual assault of any person; or

(b) determines that it would be in the public interest for an incident alleged to have occurred from the actions of a police officer to be dealt with in accordance with subsection (3).

(2) The Minister may notify the Director if the Minister determines that it would be in the public interest for an incident alleged to have occurred from the actions of a police officer to be dealt with in accordance with subsection (3).

(3) Upon notification of an incident pursuant to subsection (1) or (2) or where the Director becomes aware of a serious incident, the Director may do any one or more of the following:

(a) arrange for an investigation to be undertaken by the Serious Incident Response Team, which may include taking over an ongoing investigation at any stage;

(b) refer the matter to an agency to conduct an investigation, which may include taking over an ongoing investigation at any stage;

(c) upon consultation with a chief officer, assign one or more police officers selected under subsection 26F(1) to assist or advise an agency that is investigating an incident or to assist or advise the Team investigating an incident;

(d) enter into an agreement to have an independent team or agency from another province of Canada conduct an investigation;

(e) direct that the Team oversee, observe, monitor or review an investigation by an agency;

(f) appoint a community liaison or observer to work with the Team in the course of an investigation;

(g) refer the matter to the chief officer or the Complaints Commissioner in accordance with Section 71;

(h) refer the matter under the complaints process in Part VII of the *Royal Canadian Mounted Police Act* (Canada);

(i) determine that the matter is not within the mandate of the Team.

(4) For greater certainty, the Director may determine that it would be in the public interest for an incident alleged to have occurred from the actions of

a police officer to be dealt with in accordance with subsection (3). 2010, c. 68, s. 3; 2014, c. 25, s. 4.

Report

26J Upon the conclusion of an investigation under Section 26I or as requested by the Director, a report must be submitted to the Director in the form prescribed by the Director. 2010, c. 68, s. 3.

Determining whether charges will be laid

26K (1) Upon the conclusion of an investigation by the Serious Incident Response Team under clause 26I(3)(a) and receipt of the report from the Team under Section 26J, the Director shall decide whether a charge will be laid.

(2) Upon the conclusion of an investigation by an agency under clause 26I(3)(b), that agency shall decide whether a charge will be laid.

(3) Upon the conclusion of an investigation by a team or agency under clause 26I(3)(d), that team or agency shall decide whether a charge will be laid. 2010, c. 68, s. 3.

Investigative file available to disciplinary authority

26L Upon conclusion of an investigation by the Serious Incident Response Team under clause 26I(3)(a), the Director shall make the investigative file of the Team available to the disciplinary authority for the agency in which the police officer under investigation is employed. 2010, c. 68, s. 3.

Investigation summary

26M (1) As soon as reasonably practicable but no later than three months after receiving a report pursuant to Section 26J, the Director shall provide a summary of any investigation conducted in accordance with Section 26I to the Minister and to the agency in which the police officer under investigation is or was employed.

(2) The summary must be in the form prescribed by the regulations.

(3) The Director or the Minister shall make a summary of an investigation available to the public in the form prescribed by the regulations. 2010, c. 68, s. 3.

Annual report

26N The Director shall submit an annual report to the Minister on the operations of the Serious Incident Response Team, which must include

(a) the number of investigations started and concluded in the year;

- (b) the nature of each investigation;
- (c) the result of each investigation;
- (d) the number of charges against police officers laid in the year;
- (e) other administrative and financial details as the Minister may direct; and
- (f) such other matters as prescribed by the regulations. 2010, c. 68, s. 3.

NOVA SCOTIA PROVINCIAL POLICE

Nova Scotia Provincial Police

27 The Governor in Council may establish a police service to be known as the Nova Scotia Provincial Police. 2004, c. 31, s. 27.

Chief officer

28 (1) The Provincial Police shall be under the general control and supervision of the Minister who may, with the approval of the Governor in Council, appoint a person to be the chief officer of the Provincial Police.

(2) The chief officer of the Provincial Police may from time to time appoint eligible persons to be members of the Provincial Police in accordance with the regulations. 2004, c. 31, s. 28.

Oath of office

29 A person appointed as a member of the Provincial Police shall take the oath or affirmation prescribed by the regulations. 2004, c. 31, s. 29.

Duties

30 (1) A member of the Provincial Police is charged with the enforcement of

- (a) the penal provisions of all the laws of the Province;
- (b) any penal laws in force in the Province, other than laws of a municipality; and
- (c) the laws of a municipality, where specified by the Minister.

(2) Notwithstanding clauses (1)(b) and (c), where the Provincial Police provides policing services to a municipality, the members of the Provincial Police shall enforce the penal provisions of the by-laws of the municipality in accordance with an agreement entered into pursuant to the regulations for the provision of those services. 2004, c. 31, s. 30.

Services provided by Provincial Police

31 (1) The Provincial Police shall provide policing services including

- (a) crime prevention;
- (b) law enforcement;
- (c) assistance to victims of crime;
- (d) emergency and enhanced services; and
- (e) public order maintenance.

(2) At the direction of the Minister, the Provincial Police shall provide emergency policing services to any municipality or part of a municipality policed by a municipal police department in the event of a service disruption or such other emergency determined as such by the Minister. 2004, c. 31, s. 31.

Provincial highway patrol

32 (1) The Provincial Police shall act as the provincial highway patrol.

(2) The Minister may from time to time determine by specific or general description which highways or portions of highways constitute a provincial highway for the purpose of subsection (1). 2004, c. 31, s. 32.

Annual report

33 After the end of each calendar year, the chief officer of the Provincial Police shall file with the Minister an annual report on the affairs of the Provincial Police. 2004, c. 31, s. 33.

Agreement to employ R.C.M.P.

34 (1) The Governor in Council may from time to time enter into an agreement with

- (a) the Government of Canada for the use or employment of the Royal Canadian Mounted Police; or
- (b) another government for the use or employment of its police department,

to perform the functions of the Provincial Police.

(2) An agreement entered into pursuant to subsection (1) may contain such terms and conditions, including financial arrangements, as may be agreed upon and the Governor in Council has full power and authority to perform and carry out the agreement.

(3) Subject to the terms of the agreement referred to in subsection (1), while acting as the Provincial Police, the Royal Canadian Mounted

Police or other police department shall be under the general control and supervision of the Minister.

(4) Subject to the agreement entered into pursuant to subsection (1), the Royal Canadian Mounted Police or other police department shall perform the functions assigned to the Provincial Police by this Act.

(5) For greater certainty, where the Governor in Council enters into an agreement with the Royal Canadian Mounted Police pursuant to subsection (1),

(a) the *Royal Canadian Mounted Police Act* (Canada) applies;

(b) the complaints process in that Act applies to members of the Royal Canadian Mounted Police when acting as the Provincial Police. 2004, c. 31, s. 34.

Agreement with Government of Canada

34A The Minister may, subject to the approval of the Governor in Council, enter into an agreement with the Government of Canada respecting policing and the administration of justice. 2014, c. 55, s. 2.

MUNICIPAL POLICING

Responsibility for policing in municipality

35 (1) Every municipality is responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate, efficient and effective police department at its expense in accordance with its needs.

(2) In providing an adequate, efficient and effective police department for the purpose of subsection (1), a municipality is responsible for providing all the necessary infrastructure and administration.

(3) For the purpose of subsection (1), the service provided by a police department shall include

- (a) crime prevention;
- (b) law enforcement;
- (c) assistance to victims of crime;
- (d) emergency and enhanced services; and
- (e) public order maintenance. 2004, c. 31, s. 35.

Methods for discharge of responsibility

36 (1) The obligation of a municipality to provide policing services pursuant to Section 35 may be discharged by

- (a) the establishment of a municipal police department pursuant to this Act;
 - (b) entering into an agreement with the Province, the Government of Canada or another municipality for the use or employment of an established police department or any portion of an established police department;
 - (c) entering into an agreement with another municipality pursuant to Section 84 or 85; or
 - (d) any other means approved by the Minister.
- (2) An agreement entered into pursuant to subsection (1) may contain such terms and conditions, including financial arrangements, as may be agreed upon and the municipality and the Minister have authority to enter into, perform and carry out the agreement.
- (3) Any amounts received by the Province pursuant to an agreement authorized by subsection (2) shall be paid into the Consolidated Fund of the Province.
- (4) Any amount owed to the Province pursuant to an agreement authorized by subsection (2), where not collected by other means, may be recovered by court action, with costs, as a debt due to the Province and may be deducted from any grant payable to the municipality out of Provincial funds.
- (5) A municipality may not abolish a municipal police department without the approval of the Minister.
- (6) A municipality shall provide the Minister with immediate notice of a decision to change the manner in which it provides policing services pursuant to subsection (1) and the decision shall not be implemented without the approval of the Minister.
- (7) The Minister may refuse to approve the change in policing services if the Minister is satisfied that the alternate method of service delivery is not sufficient to maintain an adequate and effective level of policing. 2004, c. 31, s. 36.

Composition of municipal police department

- 37 (1) A municipal police department shall consist of a chief officer and such other members, special constables, by-law enforcement officers and civilian employees as the council, after consultation with the board, may from time to time determine.
- (2) The remuneration of the chief officer, other members, special constables, by-law enforcement officers and civilian employees shall be determined from time to time by the council.

(3) Every member of a municipal police department shall take an oath of office or affirmation as prescribed by the regulations and the chief officer shall maintain the oath or affirmation as part of the police records.

(4) Members, special constables, by-law enforcement officers and civilian employees of a municipal police department, other than the chief officer, shall be appointed, promoted, suspended, dismissed or reinstated by the board on the recommendation of the chief officer or by the chief officer in accordance with a by-law made by the municipality for that purpose.

(5) Notwithstanding any other enactment, a municipality has the authority to make a by-law referred to in subsection (4).

(6) No person shall perform the function of a municipal police officer unless directly employed by a municipality or a police department providing services to a municipality pursuant to this Act. 2004, c. 31, s. 37.

Chief officer of municipal police department

38 (1) The council shall appoint a person to be the chief officer of a municipal police department.

(2) For the purpose of selecting and hiring a chief officer, the council shall follow and apply the selection process and qualifications established by the regulations.

(3) For one year after the chief officer's appointment, the chief officer holds office at pleasure and thereafter may be dismissed only for cause.

(4) In accordance with this Act or the regulations or a direction of the board pursuant to Section 52, the responsibilities of the chief officer include

(a) the management, administration and operation of the police department;

(b) the maintenance of discipline within the police department;

(c) filing an annual report with the board respecting, among other things, the initiation of programs and strategies implementing the department's priorities, goals and objectives;

(d) filing with the Minister an annual report respecting the number of members, special constables, by-law enforcement officers and civilian employees employed by the police department;

(e) conducting self audit and quality assurance programs;

(f) developing and implementing organizational plans;

and

(g) promoting programs to enhance policing services.

(5) The actual day-to-day direction of the police department with respect to the enforcement of law and the maintenance of discipline within the department are the responsibility of the chief officer. 2004, c. 31, s. 38.

Qualifications and requirements

39 (1) A member of a municipal police department must meet the qualifications and requirements, including those related to training, established by the regulations.

(2) A member of a municipal police department who does not meet the qualifications and requirements set out in subsection (1) shall not be deployed to perform operational police duties. 2004, c. 31, s. 39.

Agreements between municipalities

40 (1) Two or more municipalities may enter into an agreement for the sharing or provision of specified police services.

(2) A municipality that is not policed pursuant to subsection 36(1)(b) may enter into an agreement for the sharing or provision of specified police services to the municipality by the Provincial Police.

(3) Any amounts payable pursuant to an agreement authorized by subsection (2) shall be paid into the Consolidated Fund of the Province.

(4) Any amounts owed pursuant to an agreement authorized by subsection (2), where not collected by other means, may be recovered by a court action, with costs, as a debt due to the Province and, where the amount is owed by a municipality, may be deducted from any grant payable to the municipality out of Provincial funds. 2004, c. 31, s. 40.

Powers of Minister respecting municipal compliance

41 (1) Where, in the opinion of the Minister, a municipality is not

- (a) providing or maintaining adequate and effective policing services;
- (b) complying with this Act or the regulations or a direction of the Minister pursuant to Section 5,

the Minister shall send, to the board and to the municipality, a notice that

- (c) identifies the non-compliance;
- (d) directs the board or the municipality to correct the failure to comply; and
- (e) specifies the manner in which and the time within which the failure is to be corrected.

(2) The Minister, upon being satisfied that the board or the municipality has failed to comply with a notice sent pursuant to subsection (1), may refer the matter to the Review Board for an investigation.

(3) Where, after an investigation under subsection (2), the Review Board determines that the board or the municipality has not complied with the order, the Minister may

- (a) suspend the appointment of one or more members of the board, or the entire board, for a specified period;
- (b) remove one or more members of the board or the entire board from office;
- (c) disband the police department and direct the Provincial Police or another municipal police department to police the municipality;
- (d) appoint persons as special constables to police the municipality;
- (e) appoint an administrator to perform specified functions respecting police matters in the municipality for a specified period;
- (f) take any other steps the Minister considers necessary.

(4) Where the Minister suspends or removes the entire board pursuant to clause (3) (a) or (b), the Minister may appoint persons to act as members of the board until board members are appointed pursuant to this Act.

(5) All costs incurred pursuant to this Section shall be paid by the municipality and costs incurred by the Province pursuant to this Section constitute a debt due to and recoverable by the Province from the municipality which may be deducted from any funds payable by the Province to the municipality. 2004, c. 31, s. 41.

POLICE OFFICERS

Powers of police officers

42 (1) A member of the Provincial Police, the Royal Canadian Mounted Police, a municipal police department, another police department providing policing services in the Province or the Serious Incident Response Team is a peace officer and has

- (a) all the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or Provincial enactment; and
- (b) the power and authority to enforce and to act under every enactment of the Province and any reference in any enactment or in any law, by-law, ordinance or regulation of a municipality to a

police officer, peace officer, constable, inspector or any term of similar meaning or import shall be construed to include a reference to a member of the Provincial Police, the Royal Canadian Mounted Police, a municipal police department, another police department providing policing services in the Province or the Serious Incident Response Team.

(2) Subject to this Act and the regulations, or any other enactment or an order of the Minister, the authority, responsibility and duty of a member of a municipal police department includes

- (a) maintaining law and order;
- (b) the prevention of crime;
- (c) enforcing the penal provisions of the laws of the Province and any penal laws in force in the Province;
- (d) assisting victims of crime;
- (e) apprehending criminals and offenders who may lawfully be taken into custody;
- (f) laying charges and participating in prosecutions;
- (g) executing warrants that are to be executed by peace officers;
- (h) subject to an agreement respecting the policing of the municipality, enforcing municipal by-laws within the municipality; and
- (i) obeying the lawful orders of the chief officer,

and the person shall discharge these responsibilities throughout the Province. 2004, c. 31, s. 42; 2010, c. 68, s. 4.

Tort liability of municipality

43 (1) A municipality maintaining a police department established pursuant to clause 36(1)(a) or Section 84 or 85 is liable in respect of a tort committed by a member of the police department in the performance of that person's duties.

(2) A municipality shall pay any damages or costs awarded against a member of a police department of that municipality in respect of a tort committed by the member in the performance of the member's duties, any costs incurred and not recovered by the member in any such proceedings and any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.

(3) A municipality that may be liable under this Section has the right to defend in the name and on behalf of the member of the police department any claim or civil action that may be brought against the member and that may result in such liability, and the municipality has the right to make such investigation,

negotiation or settlement of the claim or action as may be deemed expedient by the municipality.

(4) The member of the police department against whom such claim or action is made or taken shall co-operate fully with the municipality in the settlement or defence of the claim or action. 2004, c. 31, s. 43.

MEDAL IN RECOGNITION

Medal for long service

43A (1) In recognition of a significant contribution to the protection of persons and property by a police officer or other person involved in the provision of police services, the Minister or a person designated by the Minister, on the recommendation of the Advisory Committee established by this Section, may issue a medal for long service.

(2) The Minister shall establish an Advisory Committee to recommend persons to be issued medals for long service.

(3) The Advisory Committee consists of chief officers and other persons determined by the Minister.

(4) The Minister may designate a member of the Advisory Committee to be the Chair of the Committee.

(5) Where the Minister or the Minister's designate has issued a medal for long service, the Minister or the designate, on the recommendation of a chief officer, may issue a bar for further service to accompany the medal. 2007, c. 10, s. 5.

MUNICIPAL BOARD OF POLICE COMMISSIONERS

Requirement for board of police commissioners

44 (1) Every municipality that establishes a municipal police department pursuant to Section 36, 84 or 85 shall, by by-law, provide for a board of police commissioners.

(2) Where a municipal police department is established pursuant to Section 36, the board consists of five or seven members.

(3) A five-member board appointed pursuant to subsection (2) consists of

(a) two members of council appointed by resolution of the council;

- (b) two members appointed by resolution of the council, who are neither members of council nor employees of the municipality; and
- (c) one member appointed by the Minister.
- (4) A seven-member board appointed pursuant to subsection (1) consists of
- (a) three members of council appointed by resolution of the council;
- (b) three members appointed by resolution of the council, who are neither members of council nor employees of the municipality; and
- (c) one member appointed by the Minister.
- (5) Where a municipal police department is established pursuant to Section 84 or 85, unless provided otherwise in the agreement, the board consists of
- (a) two members from each municipal council appointed by resolution of that council;
- (b) two members from each municipality appointed by resolution of the council, who are neither members of council nor employees of the municipality; and
- (c) one member appointed by the Minister.
- (6) The chief officer and the chief administrative officer of the municipality must receive notice of the meetings of the board and are entitled to attend such meetings but not to vote.
- (7) A member of a board may be dismissed by
- (a) the Minister, if the Minister appointed the member; or
- (b) resolution of municipal council, if the council appointed the member. 2004, c. 31, s. 44.

Operation of board

45 (1) Each member of a board shall take an oath of office or affirmation as prescribed by regulation and adhere to a code of conduct prescribed by regulation.

(2) A chair and vice-chair of the board shall be chosen by the members of the board at the first meeting in each year.

(3) Where a member of a board is unable to carry out the member's duties by reason of illness, absence or any other reason the person or the body

that made the initial appointment may appoint some other person to act as or be a member of the board in place or stead of the absent member. 2004, c. 31, s. 45.

Remuneration

46 The council may provide for the payment of a reasonable remuneration to the members of the board who are not members of the council. 2004, c. 31, s. 46.

No action lies

47 No action or other proceeding for damages shall be instituted against a member of a board for any act done in good faith in the execution or intended execution of the member's duty or for any alleged neglect or default in the execution in good faith of that duty. 2004, c. 31, s. 47.

Powers of board and liability of members

48 A board may contract and may sue and be sued in its own name, and the members of the board are not personally liable under any contract made by the board. 2004, c. 31, s. 48.

Meetings

49 The board must hold a board meeting at least every three months. 2004, c. 31, s. 49.

Quorum

50 A majority of the members of the board constitutes a quorum. 2004, c. 31, s. 50.

Public and private meetings

51 Meetings of the board are open to the public, but all matters relating to discipline, personnel conduct, contract negotiations and security of police operations may be conducted in private and, where the matter relates to a complaint against or the discipline of the chief officer, the chair may request that the chief not attend and the chief shall not attend. 2004, c. 31, s. 51.

Board may advise or direct chief officer

52 On behalf of the board, the board chair or the chair's delegate may give advice or direction, in writing, to the chief officer on any matter within the jurisdiction of the board under this Act, but not to other members of the police department and, for greater certainty, no other member of the board shall give advice or direction to a member of the police department. 2004, c. 31, s. 52.

Annual budget of police department

53 (1) The board shall annually cause the chief officer to prepare a budget for the police department.

(2) The board shall ensure that the budget prepared pursuant to subsection (1) is consistent with those matters referred to in subsection 55(3).

(3) The budget prepared pursuant to this Section shall be submitted to council by the board for approval. 2004, c. 31, s. 53.

Training of board members

54 The members of a board shall undergo any training that may be provided for members of the board or required by the Minister or by the regulations. 2004, c. 31, s. 54.

Function of board

55 (1) The function of a board is to provide

(a) civilian governance on behalf of the council in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the municipality; and

(b) the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department,

but the board shall not exercise jurisdiction relating to

(c) complaints, discipline or personnel conduct except in respect of the chief officer of the municipal police department;

(d) a specific prosecution or investigation; or

(e) the actual day-to-day direction of the police department.

(2) With the approval of the Minister, the council, by by-law, may prescribe

(a) the additional or more specific roles and responsibilities of a board; and

(b) the rules and regulations governing proceedings of a board,

and the board has sole jurisdiction over the matters so delegated to it.

(3) Without limiting the generality of subsection (1), a board shall

(a) determine, in consultation with the chief officer, priorities, objectives and goals respecting police services in the community;

(b) ensure the chief officer establishes programs and strategies to implement the priorities, objectives and goals respecting police services;

- (c) ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies;
 - (d) ensure that police services are delivered in a manner consistent with community values, needs and expectations;
 - (e) act as a conduit between the community and the police service providers;
 - (f) recommend policies, administrative and organizational direction for the effective management of the police department;
 - (g) review with the chief officer information provided by the chief officer respecting complaints and internal discipline;
 - (h) ensure a strategic plan and business plan is in place; and
 - (i) ensure the department is managed by the chief officer according to best practices and operates effectively and efficiently.
- 2004, c. 31, s. 55.

Extra-duty and off-duty employment

56 (1) Every board shall establish a written policy respecting extra-duty employment by members of its police department and the policy shall

- (a) define extra-duty employment;
- (b) provide that requests for a member of the police department to be employed on extra duty be made to the chief officer;
- (c) require that a member of the police department engaged in extra-duty employment be in uniform except where the chief officer determines that plain clothes are required; and
- (d) require that at all times while on extra duty the member of the police department is under the orders of the police department and no one else.

(2) Every board shall establish a written policy respecting off-duty employment by members of its police department and the policy shall

- (a) define off-duty employment;
- (b) set policy guidelines regarding permitted and prohibited off-duty employment;
- (c) prohibit a member of the police department from engaging in the business of serving civil process documents or in the private investigator or private guard business; and
- (d) prohibit a member of the police department from being in uniform while engaged in off-duty employment.

(3) The chief officer shall determine whether employment is extra-duty employment or off-duty employment and whether a particular kind of off-duty employment is permitted or prohibited within the off-duty police policy. 2004, c. 31, s. 56.

POLICE ADVISORY BOARDS

Establishment and composition of police advisory boards

57 (1) A municipality receiving policing services in whole or in part from the Royal Canadian Mounted Police or the Provincial Police shall establish a police advisory board.

(2) An advisory board consists of five or seven members.

(3) A five-member advisory board consists of

(a) two members of council appointed by resolution of the council;

(b) two members appointed by resolution of the council, who are neither members of council nor employees of the municipality; and

(c) one member appointed by the Minister.

(4) A seven-member advisory board consists of

(a) three members of council appointed by resolution of the council;

(b) three members appointed by resolution of the council, who are neither members of council nor employees of the municipality; and

(c) one member appointed by the Minister.

(5) Where two or more municipalities have entered into an agreement pursuant to Section 84 to be policed by the Royal Canadian Mounted Police or the Provincial Police, unless provided otherwise in the agreement, the advisory board consists of

(a) two members from each municipal council appointed by resolution of that council;

(b) two members from each municipality appointed by resolution of the council, who are neither members of council nor employees of the municipality; and

(c) one member appointed by the Minister.

(5A) Notwithstanding subsection (1), where two or more municipalities have common issues respecting policing in their municipalities and are

policed by the Royal Canadian Mounted Police, they may, with the Minister's approval, establish a joint advisory board by entering into an agreement to do so.

(5B) A joint advisory board established pursuant to subsection (5A) consists of

- (a) two members from each council appointed by resolution of that council;
- (b) two members from each municipality appointed by resolution of the council, who are neither members of council nor employees of the municipality; and
- (c) one member appointed by the Minister.

(6) The chief officer and the chief administrative officer of the municipality must receive notice of the meetings of an advisory board and are entitled to attend such meetings but not to vote.

- (7)** A member of an advisory board may be dismissed by
- (a) the Minister, if the Minister appointed the member; or
 - (b) resolution of municipal council, if the council appointed the member.

(8) Notwithstanding anything contained in this Section, where the Minister is satisfied that a municipality has established, in conjunction with the Royal Canadian Mounted Police, a system of governance that is equal to or better than the governance provided by an advisory board, the Minister may exempt the municipality from the requirement to appoint an advisory board pursuant to this Section. 2004, c. 31, s. 57; 2014, c. 55, s. 3.

Oath of office and code of conduct

58 Each member of an advisory board shall take an oath of office or affirmation as prescribed by regulation and adhere to a code of conduct prescribed by the regulations. 2004, c. 31, s. 58.

Chair and vice-chair

59 A chair and vice-chair of the advisory board shall be chosen by the members of the advisory board at the first meeting in each year. 2004, c. 31, s. 59.

Appointment of person to act in place of absent member

60 Where a member of an advisory board is unable to carry out the duties as a member of the board by reason of illness, absence or any other reason, the person or the body that made the initial appointment may appoint some other person to act as or be a member of the advisory board in the place or stead of the absent member. 2004, c. 31, s. 60.

Remuneration

61 The council may provide for the payment of a reasonable remuneration to the members of the advisory board who are not members of the council. 2004, c. 31, s. 61.

No action lies

62 No action or other proceeding for damages shall be instituted against a member of an advisory board for any act done in good faith in the execution or intended execution of the member's duty or for any alleged neglect or default in the execution in good faith of that duty. 2004, c. 31, s. 62.

Meetings

63 The advisory board must hold a board meeting at least every three months. 2004, c. 31, s. 63.

Quorum

64 A majority of the members of the advisory board constitutes a quorum. 2004, c. 31, s. 64.

Public and private meetings

65 Meetings of the advisory board are open to the public, but all matters relating to discipline, personnel conduct, contract negotiations and security of police operations may be conducted in private. 2004, c. 31, s. 65.

Advisory board may give advice or direction to chief officer

66 On behalf of the advisory board, the board chair or the chair's delegate may, in accordance with an agreement made pursuant to clause 36(1)(b), give advice in writing to the chief officer, but not to other members of the police department and, for greater certainty, no other member of the board shall give advice or direction to a member of the police department. 2004, c. 31, s. 66.

Training of advisory board members

67 An advisory board member shall undergo any training that may be provided for members of the board or required by the Minister or by regulation. 2004, c. 31, s. 67

Function of advisory board

68 (1) The function of an advisory board is to provide advice to the council in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the municipality, but the advisory board shall not exercise jurisdiction relating to complaints, discipline, personnel conduct or the internal management of the Royal Canadian Mounted Police.

(2) With the approval of the Minister, the council, by by-law, may prescribe

(a) the additional or specific roles and responsibilities of an advisory board; and

(b) the rules and regulations governing proceedings of an advisory board,

and the advisory board has sole jurisdiction over matters so delegated to it.

(3) Without limiting the generality of subsection (1), an advisory board shall, subject to the police contract or policing agreement,

(a) determine, in consultation with the chief officer or the chief officer's designate, priorities, objectives and goals respecting police services in the community;

(b) ensure the chief officer establishes programs and strategies to implement the priorities, objectives and goals respecting police services;

(c) ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies;

(d) ensure that police services are delivered in a manner consistent with community values, needs and expectations;

(e) act as a conduit between the community and the police department;

(f) recommend policies, administrative and organizational direction for the effective management of the police department; and

(g) review with the chief officer or the chief officer's designate information provided by the chief officer respecting complaints and internal discipline. 2004, c. 31, s. 68.

POLICE INSIGNIA

Use of insignia

69 (1) No person or organization shall use the uniform, insignia, vehicle markings or other signs or symbols of a police department.

(2) Where the Minister is of the opinion that the uniform, insignia, vehicle markings or other signs or symbols employed by a person or organization are so similar to those used by a police department that the public or a member of the public may be misled, the Minister may, by order in writing, require the person or organization to cease using the uniform, insignia, vehicle markings or other signs or symbols. 2004, c. 31, s. 69.

COMPLAINTS

“member of a municipal police department” defined

70 In Sections 71 to 83, “member of a municipal police department” means a member of a police department appointed pursuant to subsection 37(4) or 38(1) or an amalgamated police department, by whatever rank or title the person may be designated, who has been sworn in as a peace officer and includes special constables and by-law enforcement officers employed by or appointed at the request of a municipality whose authority as peace officers is limited to duties contained in their appointment. 2004, c. 31, s. 70.

Referral to chief officer

71 (1) A complaint respecting the police department generally or the conduct of or the performance of a duty of a member of a municipal police department other than the chief officer shall be referred to the chief officer of that police department in accordance with the regulations.

(2) Upon receiving a complaint, the chief officer shall attempt to resolve the matter in an informal manner.

(3) The chief officer may delegate the chief officer’s authority to a member of the municipal police department or may ask a member of another police department to investigate the complaint and report on the findings.

(4) The chief officer shall report all complaints to the Complaints Commissioner at the time and in the manner prescribed by regulation. 2004, c. 31, s. 71.

Report and referral to Complaints Commissioner

72 (1) Where a complaint is satisfactorily resolved by the chief officer, a copy of the complaint and a notice of the manner of the final disposition shall be forwarded to the Complaints Commissioner and the Complaints Commissioner may publish statistics showing the nature and resolution of such complaints.

(2) Where a complaint is not satisfactorily resolved by the chief officer and where the person making the complaint or the member of a municipal police force has requested a review of that decision by the Review Board, the complaint shall be referred to the Complaints Commissioner in accordance with the regulations. 2004, c. 31, s. 72; 2014, c. 56, s. 4.

Complaint about chief officer

73 (1) A complaint respecting the conduct or performance of duty of a member of a municipal police department who is the chief officer shall be referred to the board.

(2) The board shall investigate the complaint and attempt to resolve the complaint.

(3) The board may designate a person to investigate the complaint and report to the board.

(4) A person conducting an investigation pursuant to this Section is a special constable and has all the powers and immunities of a peace officer during the investigation and any hearing related to the matter under investigation.

(5) Where the complaint is not satisfactorily resolved by the board and where the person making the complaint or the chief officer has requested a review of that decision by the Review Board, the complaint shall be referred to the Complaints Commissioner in accordance with the regulations.

(6) The board shall report all complaints concerning a chief officer to the Complaints Commissioner at the time and in the manner prescribed by the regulations. 2004, c. 31, s. 73.

Duties and powers of Complaints Commissioner

74 (1) Upon receipt of a complaint from the board or chief officer pursuant to subsection 72(2) or 73(5), the Complaints Commissioner shall attempt to resolve the complaint.

(2) In attempting to resolve the complaint, the Complaints Commissioner may investigate the complaint or designate another person to investigate the complaint and report to the Complaints Commissioner.

(3) A person conducting an investigation authorized by this Section is a special constable and has all the powers and immunities of a peace officer during the investigation and any proceeding relating to the matter under investigation.

(4) Where the Complaints Commissioner is unable to resolve the complaint, the complaint shall be referred to the Review Board in accordance with the regulations unless the Complaints Commissioner is satisfied that the complaint is frivolous, vexatious, without merit or an abuse of process, and the Review Board shall conduct a hearing in respect of the complaint.

(5) Where a complaint is satisfactorily resolved by the Complaints Commissioner, a copy of the complaint and a notice of the manner of the final disposition shall be forwarded to the Review Board and the Complaints Commissioner may publish statistics showing the nature and resolution of such complaints.

(6) The Complaints Commissioner shall not sit as a member of a panel conducting a hearing pursuant to subsection (4). 2004, c. 31, s. 74; 2014, c. 56, s. 5.

Admissibility of certain evidence

75 Where the Complaints Commissioner designates a person to investigate a complaint, any statement or admission made during the investigation by a

member of a municipal police force named in the complaint or the person who made the complaint shall not be admitted in evidence at any subsequent proceeding in respect of the complaint except with the consent of the member or the person who made the complaint, as the case may be, and the person designated to investigate for the Complaints Commissioner shall not give evidence nor shall any material in the file be produced at a proceeding in respect of the complaint. 2004, c. 31, s. 75.

Open and closed hearings

76 (1) A hearing by the Review Board respecting a complaint is open to the public unless the Review Board is of the opinion that it is in the best interests of the public, the maintenance of order or the proper administration of justice to exclude members of the public for all or part of the proceedings.

(2) A hearing with respect to an internal discipline matter is not open to the public. 2004, c. 31, s. 76

Parties to proceedings

77 At a hearing of the Review Board,

(a) where the review is the result of or involves a complainant, the complainant;

(b) a member of a municipal police department who is the subject of complaint or disciplinary proceedings;

(c) the chief officer or the chief officer's delegate;

(d) the board;

(e) any person who can demonstrate a personal interest in the proceedings; and

(f) the Minister,

are entitled to be parties to the proceedings. 2004, c. 31, s. 77.

Hearing de novo

78 A hearing by the Review Board shall be a hearing *de novo* and the parties to the proceeding may

(a) appear and be heard and be represented by counsel; and

(b) call witnesses and examine or cross-examine all witnesses.

2004, c. 31, s. 78.

Powers of Review Board at hearing and decision

79 (1) At a hearing under this Act, the Review Board may

(a) determine all questions of fact and law;

(b) dismiss the matter;

(c) find that the matter under review has validity and recommend to the body responsible for the member of the municipal police department what should be done in the circumstances;

(d) vary any penalty imposed including, notwithstanding any contract or collective agreement to the contrary, the dismissal of the member of the municipal police department or the suspension of the member with or without pay;

(e) affirm the penalty imposed;

(f) substitute a finding that in its opinion should have been reached;

(g) award or fix costs where appropriate, including ordering costs against the person making the complaint, where the complaint is without merit;

(h) supersede a disciplinary procedure or provision in a contract or collective agreement.

(2) The decision of the Review Board must be in writing and provide reasons and shall be forwarded to the parties.

(3) The decision of the Review Board is final.

(4) Where a decision of the Review Board awards costs against any party, the decision is enforceable in the same manner as any order or judgment of the Supreme Court of Nova Scotia.

(5) To make a decision of the Review Board enforceable in the same manner as an order of the Supreme Court of Nova Scotia, the Chair of the Review Board shall endorse a copy of the decision certified by the Chair to be a true copy as follows:

Make the within enforceable in the same manner as an order of the Supreme Court.

Dated this day of, 20. . . .
Chair of the Review Board

and the Review Board shall forward the decision so endorsed to the prothonotary of the Supreme Court who shall, on receiving it, enter the same as a record and it shall thereupon be enforceable in the same manner as an order or judgment of that Court. 2004, c. 31, s. 79; 2014, c. 56, s. 6.

INTERNAL DISCIPLINE

Proceedings required

80 (1) No member of a municipal police department is subject to reduction in rank, to dismissal or to any other penalty for breach of the code of conduct except after proceedings have been taken in accordance with this Act and the regulations.

(2) Nothing in subsection (1) affects action taken against a member of a municipal police department in accordance with a collective agreement other than for breach of the code of conduct prescribed by regulation. 2004, c. 31, s. 80.

Initiation of review

81 After a disciplinary decision has been made in accordance with this Act and the regulations, a police officer who is the subject of the disciplinary decision may initiate a review of the decision by filing a notice of review with the Complaints Commissioner in accordance with the regulations. 2004, c. 31, s. 81; 2014, c. 56, s. 7.

Hearing

82 Upon receipt of a notice of review, the Review Board shall conduct a hearing. 2004, c. 31, s. 82.

Application of Review Board provisions

83 The provisions of this Act respecting the hearing of complaints by the Review Board apply *mutatis mutandis* to the hearing of a review of the matter of internal discipline. 2004, c. 31, s. 83.

AMALGAMATION OF POLICE DEPARTMENTS

Amalgamation agreement

84 (1) Notwithstanding any enactment, two or more municipalities having police departments may enter into an agreement to be policed by a single police department, but the agreement shall not take effect until it is approved by the Minister.

(2) An agreement entered into pursuant to subsection (1) shall comply with the regulations. 2004, c. 31, s. 84.

Approval

85 (1) Where two or more municipalities are amalgamated, the amalgamation of the police department shall not take effect until the organization of the amalgamated police department has been approved by the Minister.

(2) Any appointments to the board for a proposed amalgamated municipality may be made before the amalgamation takes effect. 2004, c. 31, s. 85.

Duties unaffected by agreement

86 A municipality that is a party to an agreement entered into pursuant to Section 85 is not relieved of duties and responsibilities pursuant to this Act and the regulations by reason of being a party to the agreement. 2004, c. 31, s. 86.

ABORIGINAL POLICING

Appointment, powers and duties of aboriginal police officers

87 (1) The Minister may

- (a) appoint a person as an aboriginal police officer; and
- (b) define the territorial jurisdiction and duties of an aboriginal police officer.

(2) An aboriginal police officer has all the power, authority, immunity and protection provided a peace officer or police officer in any enactment that the aboriginal police officer is responsible for enforcing pursuant to the appointment.

(3) Where the specified duties of an aboriginal police officer relate to a reserve as defined in the *Indian Act* (Canada), the appointment also requires the approval of the reserve's police governing authority.

(4) The Minister shall not terminate the appointment of an aboriginal police officer whose specified duties relate to a reserve without first consulting with the reserve's police governing authority that approved the appointment.

(5) The appointment of an aboriginal police officer must be in writing and state clearly the territorial jurisdiction and duties of the officer.

(6) Every aboriginal police officer shall take an oath of office or affirmation as prescribed by regulation. 2004, c. 31, s. 87.

SPECIAL CONSTABLES,
BY-LAW ENFORCEMENT OFFICERS AND
AUXILIARY CONSTABLES

Special constables

88 (1) The Minister or chief officer with the approval of the Minister may

- (a) appoint special constables as necessary;
- (b) define the offices, positions, territorial jurisdiction and duties of special constables, generally or specifically;
- (c) make rules and regulations governing the qualifications, office, position, duties, conduct and discipline of special constables and any other matter concerning special constables;
- (d) suspend or revoke the appointment of a special constable

(2) Subject to the limitations of the appointment under subsection (1), a special constable is, while discharging the responsibilities and exercising the powers of a special constable, a peace officer.

(3) Before the suspension or revocation of the appointment of a special constable, the special constable shall be given reasonable information with respect to the reasons for the suspension or revocation and an opportunity to reply orally or in writing as the Minister or chief officer may determine.

(4) The employer of a special constable is responsible for ensuring that the special constable fulfils the duties imposed by this Act and the rules and regulations made pursuant to this Act and exercises the power and authority conferred by this Act and the appointment in a proper manner.

(5) The employer of a special constable is liable in respect of a tort committed by the special constable in the performance of the special constable's duties. 2004, c. 31, s. 88.

By-law enforcement officers

89 (1) The council of a municipality that has its own police department pursuant to Section 36 may, with the approval of the Minister or a person designated by the Minister, appoint one or more by-law enforcement officers who have the authority of a peace officer only with respect to the enforcement of the by-laws of the municipality.

(2) Where the council of a municipality appoints by-law enforcement officers pursuant to subsection (1), the municipality is liable in respect of a tort committed by the by-law enforcement officer in the performance of the by-law enforcement officer's duties. 2004, c. 31, s. 89.

Appointment, jurisdiction and oath of office

90 (1) The appointment of a special constable or by-law enforcement officer pursuant to Section 88 or 89 must be in writing and state clearly the territorial jurisdiction and duties of the special constable or by-law enforcement officer, and the person's authority as a constable or peace officer are only as stated.

(2) The territorial jurisdiction of a by-law enforcement officer does not extend beyond the boundaries of the municipality to which the officer is appointed.

(3) Every special constable or by-law enforcement officer, before entering upon the person's duties, shall take and subscribe such oath or affirmation as is prescribed by regulation. 2004, c. 31, s. 90.

Auxiliary police officers

91 (1) A chief officer in accordance with a by-law made by a municipality for that purpose or the officer in charge of the Provincial Police or that

officer's delegate may, in accordance with the regulations, appoint persons as auxiliary police officers to assist the police department in the performance of its duties.

(2) An auxiliary police officer

(a) has the powers, authority, privileges, rights and immunities of a peace officer;

(b) shall act only when accompanied by and under the direct supervision of a police officer other than an auxiliary police officer; and

(c) shall not be used to replace or reduce police positions.

(3) Every auxiliary police officer shall take an oath of office or affirmation as prescribed by the regulations.

(3A) No auxiliary police officer is liable for damage caused by an act or omission of the auxiliary police officer if

(a) the auxiliary police officer was acting within the scope of the auxiliary police officer's responsibilities at the time of the act or omission; and

(b) the auxiliary police officer was properly certified and authorized, if required by law, by the appropriate authorities for the activities or practices undertaken by the auxiliary police officer at the time the damage occurred,

but the limitations of the liability of the auxiliary police officer under this Act do not apply if

(c) the damage was caused by wilful, reckless or criminal misconduct or gross negligence by the auxiliary police officer;

(d) the damage was caused by the auxiliary police officer while operating a motor vehicle or other vehicle for which the owner is required by law to maintain insurance;

(e) the act or omission that caused the damage constitutes an offence; or

(f) the auxiliary police officer was unlawfully using or impaired by alcohol or drugs at the time of the act or omission that caused the damage.

(4) The municipality or police department for which an auxiliary police officer is appointed is liable in respect of a tort committed by the auxiliary police officer in the performance of that person's duties. 2004, c. 31, s. 91; 2014, c. 55, s. 4.

GENERAL

Offence and penalty

92 Any person who violates this Act or the regulations or any oath taken pursuant to this Act is guilty of an offence and liable on summary conviction to the penalties provided by the *Summary Proceedings Act*. 2004, c. 31, s. 92.

Act prevails

93 (1) Where there is a conflict between this Act and any other Act, this Act prevails.

(2) Every collective agreement is subject to this Act and the regulations and, where there is a conflict between the agreement and this Act or between the agreement and the regulations, this Act and the regulations prevail. 2004, c. 31, s. 93.

No action lies

94 No action lies or shall be instituted against the Minister, Her Majesty in right of the Province, an employee of the Department of Justice, the Complaints Commissioner, the Review Board, a member of the Review Board or the Serious Incident Response Team for any act done in good faith in the execution or intended execution of duty or for any alleged neglect or default in the execution in good faith of that duty. 2004, c. 31, s. 94; 2010, c. 68, s. 5.

Authority to lay charge

95 (1) For greater certainty, a police officer who investigates a matter and who on reasonable grounds believes that a charge should be laid has the sole authority to lay a charge with respect to that matter.

(2) Notwithstanding subsection (1), the Director has the sole authority to lay a charge with respect to a matter that is investigated by the Serious Incident Response Team under clause 26I(3)(a). 2004, c. 31, s. 95; 2010, c. 68, s. 6.

Transitional provisions

96 (1) In this Section,

(a) “former Commission” means the Nova Scotia Police Commission established pursuant to Chapter 348 of the Revised Statutes, 1989, the *Police Act*;

(b) “former Review Board” means the Police Review Board established pursuant to Chapter 348 of the Revised Statutes, 1989, the *Police Act*.

(2) Upon the coming into force of this Act, the members of the former Commission and the members of the former Review Board are the members of the Review Board and hold office on the same basis, for the same term and upon the same conditions as their appointment to the former Commission or former

Review Board, as the case may be, except where the appointment conflicts with this Act, in which case this Act applies.

(3) For greater certainty, every matter before the former Review Board immediately before the coming into force of this Act shall be continued before the Review Board and, where any such matter has been heard, in whole or in part, by any members of the former Review Board, the matter shall be heard by such of those members as are members of the Review Board. 2004, c. 31, s. 96.

Regulations

- 97 (1) The Governor in Council may make regulations
- (a) respecting the governance of police departments and the Serious Incident Response Team and the conduct, duties, suspension and dismissal of members of police departments and the Serious Incident Response Team;
 - (b) governing the qualifications and requirements for the appointment of members to police departments;
 - (c) governing the qualifications of and process for the appointment of a chief officer;
 - (d) respecting special constables and by-law enforcement officers;
 - (e) governing the qualifications, criteria, appointment, duties and training required of an auxiliary police officer;
 - (f) prescribing the deployment and department of auxiliary police officers;
 - (g) prescribing the minimum remuneration to be paid by a municipality to members of boards who are appointed by the Minister;
 - (h) providing for or granting financial assistance, including guarantees, to and the administration and course of study in a police training school;
 - (i) respecting applications for and other matters relating to appointments under this Act, including the fees therefor;
 - (j) respecting the procedures for dealing with complaints;
 - (k) respecting the investigative powers of a person assigned by the Review Board or the Complaints Commissioner to conduct an investigation pursuant to this Act;
 - (l) respecting costs and fees payable with respect to an investigation or inquiry pursuant to Section 23;
 - (m) respecting the investigative powers of a person assigned by the Minister to perform an investigation pursuant to Section 7;

- (n) respecting the powers, privileges and immunities of the Review Board and the Complaints Commissioner;
- (na) respecting the powers, privileges and immunities of the Serious Incident Response Team;
- (nb) respecting investigations conducted by the Serious Incident Response Team;
- (nc) respecting the operation and function of the Serious Incident Response Team;
- (nd) prescribing forms required for investigations by the Serious Incident Response Team and for reports or summaries to or by the Team;
- (ne) respecting the annual report of the Director;
- (nf) creating programs to support the work of the Serious Incident Response Team;
- (o) establishing minimum standards for municipal police officers, special constables, by-law enforcement officers and auxiliary police officers;
- (p) prescribing a uniform code of conduct for members of police departments;
- (q) respecting codes of conduct;
- (r) respecting internal discipline procedures for police departments;
- (s) establishing and requiring the installation of an inter-communications system for one or more police departments in the Province and regulating its operation and procedures;
- (t) prescribing requirements respecting clothing, uniforms, badges of rank and equipment for police officers, special constables, by-law enforcement officers, auxiliary police officers and the Serious Incident Response Team;
- (u) prescribing or regulating the number of meetings to be held by boards and advisory boards;
- (v) prescribing oaths or affirmations;
- (w) prescribing courses of training for recruits and members of police departments, including the institutions where training is to take place and the qualifications of instructors;
- (x) prescribing the records, returns and books and accounts to be kept and made by police departments or the members of police departments;

(y) prescribing the method of accounting for fees and costs and other money that comes into the hands of members of police departments;

(z) prescribing what organizations and associations of police officers and what organizations and associations sponsored by police officers may solicit money or gifts from persons or sell or offer to sell to persons articles, advertisements, items or things, the nature and kind of the money, gifts, articles, advertisements, items or things, the records to be kept, the receipts to be given and the disclosure to be made;

(aa) relating to the powers, functions or duties of the Review Board or the Complaints Commissioner under this Act or any matter relating to the functions or duties assigned to the Review Board or the Complaints Commissioner;

(ab) providing for the minimum number of members of police departments that are to be employed, either on the basis of population, area, property assessment, criminal caseload, calls for service or a combination of them, or on another basis;

(ac) respecting the payment of fees and expenses to witnesses at hearings held pursuant to this Act;

(ad) prescribing a population over which a municipality is responsible for providing policing services and under which the Province is responsible for providing policing services to that municipality;

(ae) prescribing the administration of rewards offered in respect of an offence;

(af) respecting any matter relating to policing pursuant to Section 87;

(ag) prescribing costs a municipality pays to the Province for providing and maintaining a police department in the Province;

(ah) prescribing a process for the certification of municipal and Provincial police officers providing policing services in the Province;

(ai) respecting police reviews, including the frequency of reviews;

(aj) respecting agreements between the Provincial Police and a municipality;

(ak) prescribing duties and functions of boards and advisory boards;

(al) allocating costs for contracted or shared services;

(am) prescribing the minimum contents of agreements;

- (an) respecting the establishment of the Provincial Police;
- (ao) prescribing the level of police services to be provided by a municipality;
- (ap) prescribing standards for the adequacy and effectiveness of police services;
- (aq) defining any word or expression used but not defined in this Act;
- (ar) further defining any word or expression defined in this Act;
- (as) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act, including the governance of the Provincial Police.

(2) Where the Minister enters into an agreement referred to in Section 34, the Minister may make regulations

- (a) exempting the agreement from any provision of this Act or the regulations;
- (b) exempting policing services that are provided under the agreement from any provision of this Act or the regulations;
- (c) modifying any provision of this Act or the regulations for the purpose of applying the provision to
 - (i) the agreement, or
 - (ii) the policing services provided under the agreement;
- (d) governing any matter not referred to in clauses (a) to (c) respecting
 - (i) the agreement, or
 - (ii) the policing services provided under the agreement;
- (e) respecting the status of the reserve's police governing authority to sue and be sued in its own name, the determination of liability of members of the police governing authority and the determination of liability in respect of a tort committed by a an aboriginal police officer in the performance or purported performance of the officer's duties, where the agreement is one for the establishment of an aboriginal police department.

(3) Any regulation made pursuant to subsection (1) may be general or particular in its application.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) and the exercise by the Minister of the authority contained

in subsection (2) are regulations within the meaning of the *Regulations Act*. 2004, c. 31, s. 97; 2010, c. 68, s. 7.

Repeal of former Police Act

98 Chapter 348 of the Revised Statutes, 1989, the *Police Act*, is repealed. 2004, c. 31, s. 98.

Proclamation

99 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2004, c. 31, s. 99.

Proclaimed - December 20, 2005
In force - January 1, 2006
