

Police Services Act

R.S.O. 1990, CHAPTER P.15

Consolidation Period: From June 1, 2011 to the e-Laws currency date.

Last amendment: 2009, c. 33, Sched. 9, s. 10.

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Declaration of principles

1. Police services shall be provided throughout Ontario in accordance with the following principles:

1. The need to ensure the safety and security of all persons and property in Ontario.
2. The importance of safeguarding the fundamental rights guaranteed by the Canadian Charter of Rights and Freedoms and the Human Rights Code.
3. The need for co-operation between the providers of police services and the communities they serve.

4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
6. The need to ensure that police forces are representative of the communities they serve. R.S.O. 1990, c. P.15, s. 1.

Definitions

2. (1) In this Act,

“appointing official” has the same meaning as in the Interprovincial Policing Act, 2009; (“agent de nomination”)

“association” means an association whose members belong to one police force and whose objects include the improvement of their working conditions and remuneration; (“association”)

“board” means a municipal police services board; (“commission de police”)

“chief of police” means a municipal chief of police or the Commissioner of the Ontario Provincial Police and includes an acting chief of police; (“chef de police”)

“Commission” means the Ontario Civilian Police Commission; (“Commission”)

“Commissioner” means the Commissioner of the Ontario Provincial Police; (“commissaire”)

“extra-provincial commander” has the same meaning as in the Interprovincial Policing Act, 2009; (“commandant extraprovincial”)

“Independent Police Review Director” means the person appointed under subsection 26.1 (1); (“directeur indépendant d’examen de la police”)

“local commander” has the same meaning as in the Interprovincial Policing Act, 2009; (“commandant local”)

“member of a police force” means an employee of the police force or a person who is appointed as a police officer under the Interprovincial Policing Act, 2009; (“membre d’un corps de police”)

“police force” means the Ontario Provincial Police or a municipal police force; (“corps de police”)

“police officer” means a chief of police or any other police officer, including a person who is appointed as a police officer under the Interprovincial Policing Act, 2009, but does not include a special constable, a First Nations Constable, a municipal law enforcement officer or an auxiliary member of a police force; (“agent de police”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act; (“règlements”)

“spouse” means,

(a) a spouse as defined in section 1 of the Family Law Act, or

(b) either of two persons who live together in a conjugal relationship outside marriage. (“conjoint”) R.S.O. 1990, c. P.15, s. 2; 1997, c. 8, s. 1; 1999, c. 6, s. 55 (1); 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. N, s. 58; 2005, c. 5, s. 58 (1, 2); 2007, c. 5, s. 1; 2009, c. 18, Sched. 23, s. 14; 2009, c. 30, s. 43 (1, 2).

Officer appointed under the Interprovincial Policing Act, 2009 deemed to be a member of a specific police force

(2) For the purposes of sections 49 and 132 to 134 of this Act, section 25.1 of the Criminal Code (Canada) and any designation of a police force made by the Solicitor General under section 2 of the Controlled Drugs and Substances Act (Police Enforcement) Regulations (Canada), a person appointed as a police officer under the Interprovincial Policing Act, 2009 is deemed to be,

(a) a member of the Ontario Provincial Police;

(b) if he or she was appointed by a member of a municipal police force, a member of that municipal police force; or

(c) if he or she was appointed by a member of a board, a member of the municipal police force for which the board is responsible. 2009, c. 30, s. 43 (3).

PART I

RESPONSIBILITY FOR POLICE SERVICES

Solicitor General

Administration of Act

3. (1) Repealed: 2007, c. 5, s. 2.

Duties and powers of Solicitor General

(2) The Solicitor General shall,

(a) monitor police forces to ensure that adequate and effective police services are provided at the municipal and provincial levels;

(b) monitor boards and police forces to ensure that they comply with prescribed standards of service;

(c) Repealed: 1995, c. 4, s. 4 (1).

(d) develop and promote programs to enhance professional police practices, standards and training;

(e) conduct a system of inspection and review of police forces across Ontario;

(f) assist in the co-ordination of police services;

(g) consult with and advise boards, community policing advisory committees, municipal chiefs of police, employers of special constables and associations on matters relating to police and police services;

(h) develop, maintain and manage programs and statistical records and conduct research studies in respect of police services and related matters;

(i) provide to boards, community policing advisory committees and municipal chiefs of police information and advice respecting the management and operation of police forces, techniques in handling special problems and other information calculated to assist;

(j) issue directives and guidelines respecting policy matters;

(k) develop and promote programs for community-oriented police services;

(l) operate the Ontario Police College. R.S.O. 1990, c. P.15, s. 3 (2); 1995, c. 4, s. 4 (1); 1997, c. 8, s. 2 (2, 3).

Ontario Police College continued

(3) The police college known as the Ontario Police College for the training of members of police forces is continued. R.S.O. 1990, c. P.15, s. 3 (3).

Municipalities

Police services in municipalities

4. (1) Every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs. 1997, c. 8, s. 3.

Core police services

(2) Adequate and effective police services must include, at a minimum, all of the following police services:

1. Crime prevention.

2. Law enforcement.

3. Assistance to victims of crime.

4. Public order maintenance.

5. Emergency response. 1997, c. 8, s. 3.

Infrastructure for police services

(3) In providing adequate and effective police services, a municipality shall be responsible for providing all the infrastructure and administration necessary for providing such services, including vehicles, boats, equipment, communication devices, buildings and supplies. 1997, c. 8, s. 3.

Application

(4) Subsection (1) applies to,

(a) single-tier municipalities;

(b) lower-tier municipalities in the County of Oxford and in counties; and

(c) regional municipalities, other than the County of Oxford. 2002, c. 17, Sched. F, Table.

(5) Repealed: 2002, c. 17, Sched. F, Table.

Exception

(6) Despite subsection (4), the councils of the County of Oxford and of all the lower-tier municipalities within the County of Oxford may agree to have subsection (1) apply to the County of Oxford and not to the lower-tier municipalities but, having made such agreement, the councils cannot thereafter revoke it. 2002, c. 17, Sched. F, Table.

Methods of providing municipal police services

5. (1) A municipality's responsibility to provide police services shall be discharged in one of the following ways:

1. The council may establish a police force, the members of which shall be appointed by the board under clause 31 (1) (a).

2. The council may enter into an agreement under section 33 with one or more other councils to constitute a joint board and the joint board may appoint the members of a police force under clause 31 (1) (a).

3. The council may enter into an agreement under section 6 with one or more other councils to amalgamate their police forces.

4. The council may enter into an agreement under section 6.1 with the council of another municipality to have its police services provided by the board of the other municipality, on the conditions set out in the agreement, if the municipality that is to receive the police services is contiguous to the municipality that is to provide the police services or is contiguous to any other municipality that receives police services from the same municipality.

5. The council may enter into an agreement under section 10, alone or jointly with one or more other councils, to have police services provided by the Ontario Provincial Police.

6. With the Commission's approval, the council may adopt a different method of providing police services. 1997, c. 8, s. 4.

Same – different methods in one municipality

(2) Subject to subsection (3), a municipality's responsibility to provide police services may be discharged in one way set out in subsection (1) in one discrete area of the municipality and in another way or ways set out in subsection (1) in other discrete areas of the municipality if,

(a) the municipality consists of two or more widely dispersed communities or contains, within its boundaries, one or more communities that are remote from the rest of the municipality; or

(b) police services have historically been provided to one or more discrete areas of the municipality in a way that is different from the way police services are provided in the rest of the municipality.
2001, c. 11, s. 1.

One board or joint board

(3) All the police services provided in one municipality, except police services provided in a way described in paragraph 3 or 4 of subsection (1) or police services provided in the municipality by the Ontario Provincial Police under section 5.1, must be provided under one board or joint board. 2002, c. 18, Sched. N, s. 59.

If municipality fails to provide police services

5.1 (1) If a municipality does not provide police services by one of the ways set out in section 5, the Ontario Provincial Police shall provide police services to the municipality.

Municipality to pay for O.P.P. services

(2) A municipality that is provided police services by the Ontario Provincial Police under subsection (1) shall pay the Minister of Finance for the services, in the amount and the manner provided by the regulations.

Same

(3) The amount owed by a municipality for the police services provided by the Ontario Provincial Police, if not collected by other means, may be deducted from any grant payable to the municipality out of provincial funds or may be recovered by a court action, with costs, as a debt due to Her Majesty.

Community policing advisory committee

(4) One or more municipalities served by the same Ontario Provincial Police detachment that provides police services under this section may establish a community policing advisory committee.

Composition

(5) If a community policing advisory committee is established, it shall be composed of one delegate for each municipality that is served by the same Ontario Provincial Police detachment and that chooses to send a delegate.

Functions

(6) A community policing advisory committee shall advise the detachment commander of the Ontario Provincial Police detachment assigned to the municipality or municipalities, or his or her designate, with respect to objectives and priorities for police services in the municipality or municipalities.

Term of office

(7) The term of office for a delegate to a community policing advisory committee shall be as set out by the council in his or her appointment, but shall not exceed the term of office of the council that appointed the delegate.

Same, and reappointment

(8) A delegate to a community policing advisory committee may continue to sit after the expiry of the term of office of the council that appointed him or her until the appointment of his or her successor, and is eligible for reappointment.

Protection from liability

(9) No action or other proceeding for damages shall be instituted against a community policing advisory committee or a delegate to a community policing advisory committee for any act done in good faith in the execution or intended execution of a duty or for any alleged neglect or default in the execution in good faith of a duty. 1997, c. 8, s. 5.

Amalgamation of police forces

6. (1) Despite any other Act, the councils of two or more municipalities that have police forces may enter into an agreement to amalgamate them. R.S.O. 1990, c. P.15, s. 6 (1); 1997, c. 8, s. 6 (1).

Contents of amalgamation agreement

(2) The agreement shall deal with,

(a) the establishment and, subject to section 33, the composition of a joint board for the amalgamated police force;

(b) the amalgamation of the police forces and the appointment or transfer of their members;

(c) the joint board's use of the assets and its responsibility for the liabilities associated with the police forces;

(d) the budgeting of the cost for the operation of the amalgamated police force;

(e) any other matter that is necessary or advisable to effect the amalgamation. R.S.O. 1990, c. P.15, s. 6 (2); 1997, c. 8, s. 6 (2, 3).

Commission's approval

(3) The agreement does not take effect until the Commission has approved the organization of the amalgamated police force. R.S.O. 1990, c. P.15, s. 6 (3).

Exception, board appointments

(4) Appointments to a joint board for an amalgamated police force may be made before the agreement takes effect. R.S.O. 1990, c. P.15, s. 6 (4); 1997, c. 8, s. 6 (4).

Municipal agreements for providing police services

6.1 (1) The councils of two municipalities may enter into an agreement for the provision of police services for one municipality by the board of the other municipality, on the conditions set out in the agreement, if the municipality that is to receive the police services is contiguous to the municipality that is to provide the police services or is contiguous to any other municipality that receives police services from the same municipality.

Advisors to board

(2) The council of a municipality that receives police services pursuant to an agreement made under subsection (1) may select a person to advise the other municipality's board with respect to objectives and priorities for police services in the municipality that receives the police services.

Term of office

(3) The term of office for a person selected to advise another municipality's board shall be as set by the council when the person is selected, but shall not exceed the term of office of the council that selected him or her.

Same and reappointment

(4) A person selected to advise another municipality's board may continue to sit after the expiry of the term of office of the council that selected him or her until the selection of his or her successor, and is eligible for reappointment.

Protection from liability

(5) No action or other proceeding for damages shall be instituted against a person selected to advise another municipality's board for any act done in good faith in the execution or intended execution of a duty or for any alleged neglect or default in the execution in good faith of a duty. 1997, c. 8, s. 7.

Municipal agreements for sharing police services

7. (1) Two or more boards may agree that one board will provide some police services to the other or others, on the conditions set out in the agreement.

Limitation

(2) Two or more boards may not agree under subsection (1) that the police force of one board will provide the other board or boards with all the police services that a municipality is required to provide under section 4.

Municipal agreements with O.P.P.

(3) The board of a municipality may agree with the Commissioner or with the local detachment commander of the Ontario Provincial Police that the Ontario Provincial Police will provide some police services to the municipality, on the conditions set out in the agreement, and subsections 10 (7) and (8) apply to the agreement. 1997, c. 8, s. 8.

Additional municipal police forces

8. (1) A municipality to which subsection 4 (1) (obligation to provide police services) does not apply may, with the Commission's approval, establish and maintain a police force.

Transition

(2) An approval given or deemed to have been given under section 19 of the Police Act, being chapter 381 of the Revised Statutes of Ontario, 1980, in respect of a police force that was being maintained on the 30th day of December, 1990, shall be deemed to have been given under this section.

Revocation

(3) The Commission may revoke an approval given or deemed to have been given under this section. R.S.O. 1990, c. P.15, s. 8.

Police services absent or inadequate, O.P.P. assistance

9. (1) If the Commission finds that a municipality to which subsection 4 (1) applies is not providing police services, it may request that the Commissioner have the Ontario Provincial Police give assistance.

Inadequate police services

(2) If the Commission finds that a municipal police force is not providing adequate and effective police services or is not complying with this Act or the regulations, it may communicate that finding to the board of the municipality and direct the board to take the measures that the Commission considers necessary.

Idem

(3) If the board does not comply with the direction, the Commission may request that the Commissioner have the Ontario Provincial Police give assistance.

Crown Attorney's request

(4) In any area for which a municipality is required to provide police services, the Crown Attorney may request that the Commissioner have the Ontario Provincial Police give assistance.

Board's request

(5) A board may, by resolution, request that the Commissioner have the Ontario Provincial Police give assistance.

Request of chief of police in emergency

(6) A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario Provincial Police give assistance.

Chief of police to advise board

(7) A chief of police who makes a request under subsection (6) shall advise the chair of the board of the fact as soon as possible. R.S.O. 1990, c. P.15, s. 9 (1-7).

Assistance of O.P.P.

(8) When a request is made under this section, the Commissioner shall have the Ontario Provincial Police give such temporary or emergency assistance as he or she considers necessary and shall have the Ontario Provincial Police stop giving temporary or emergency assistance when he or she considers it appropriate to do so. 1997, c. 8, s. 9 (1).

Cost of services

(9) The Commissioner shall certify the cost of the services provided under this section by the Ontario Provincial Police and, unless the Solicitor General directs otherwise, the municipality shall pay that amount to the Minister of Finance. R.S.O. 1990, c. P.15, s. 9 (9); 1997, c. 8, s. 9 (2).

Same

(10) The amount owed by a municipality for the police services provided by the Ontario Provincial Police, if not collected by other means, may be deducted from any grant payable to the municipality out of provincial funds or may be recovered by a court action, with costs, as a debt due to Her Majesty. 1997, c. 8, s. 9 (3).

Municipal agreements for provision of police services by O.P.P.

10. (1) The Solicitor General may enter into an agreement with the council of a municipality or jointly with the councils of two or more municipalities for the provision of police services for the municipality or municipalities by the Ontario Provincial Police.

Board required

(2) In order for a municipality to enter into an agreement under this section, the municipality must have a board.

Same

(3) In order for two or more municipalities to enter into an agreement under this section, the municipalities must have a joint board.

Transition

(4) If an agreement under this section was entered into, before section 10 of the Police Services Amendment Act, 1997 comes into force, by a municipality that did not have a board at the time, the agreement remains valid and enforceable despite subsection (2), but the agreement may not be renewed unless the municipality has a board.

Collective bargaining

(5) No agreement shall be entered into under this section if, in the Solicitor General's opinion, a council seeks the agreement for the purpose of defeating the collective bargaining provisions of this Act.

Duties of O.P.P.

(6) When the agreement comes into effect, the Ontario Provincial Police detachment assigned to the municipality or municipalities shall provide police services for the municipality or municipalities, and shall perform any other duties, including by-law enforcement, that are specified in the agreement.

Payment into Consolidated Revenue Fund

(7) The amounts received from municipalities under agreements entered into under this section shall be paid into the Consolidated Revenue Fund.

Collection of amounts owed

(8) The amount owed by a municipality under the agreement, if not collected by other means, may be deducted from any grant payable to the municipality out of provincial funds or may be recovered by a court action, with costs, as a debt due to Her Majesty.

Role of board

(9) If one or more municipalities enters into an agreement under this section, the board or joint board shall advise the Ontario Provincial Police detachment commander assigned to the municipality or municipalities, or his or her designate, with respect to police services in the municipality or municipalities and shall,

(a) participate in the selection of the detachment commander of the detachment assigned to the municipality or municipalities;

(b) generally determine objectives and priorities for police services, after consultation with the detachment commander or his or her designate;

(c) establish, after consultation with the detachment commander or his or her designate, any local policies with respect to police services (but the board or joint board shall not establish provincial policies of the Ontario Provincial Police with respect to police services);

(d) monitor the performance of the detachment commander;

(e) receive regular reports from the detachment commander or his or her designate on disclosures and decisions made under section 49 (secondary activities);

(f) review the detachment commander's administration of the complaints system under Part V and receive regular reports from the detachment commander or his or her designate on his or her administration of the complaints system.

Non-application of certain sections

(10) If one or more municipalities enters into an agreement under this section, section 31 (responsibilities of board), section 38 (municipal police force) and section 39 (estimates) do not apply to the municipality or municipalities. 1997, c. 8, s. 10.

Municipalities who may receive fines

11. (1) This section applies if a municipality is entitled to receive fines paid as a result of prosecutions instituted by police officers of the municipal police force.

Idem

(2) If the municipality does not have its own police force because of an agreement under section 7 or 10, the police officers who are assigned to the municipality under the agreement shall, for the purposes of determining entitlement to fines, be deemed to be police officers of the municipal police force. R.S.O. 1990, c. P.15, s. 11.

12. Repealed: 1997, c. 8, s. 11.

Special areas, services by O.P.P.

13. (1) If, because of the establishment of a business or for any other reason, special circumstances or abnormal conditions in an area make it inequitable, in the Solicitor General's opinion, to impose the responsibility for police services on a municipality or on the Province, the Lieutenant Governor in Council may designate the area as a special area.

Agreement for provision of police services by O.P.P.

(2) The person who operates the business or owns the special area shall enter into an agreement with the Solicitor General for the provision of police services by the Ontario Provincial Police for the special area. R.S.O. 1990, c. P.15, s. 13 (1, 2).

Duties of O.P.P., payment

(3) Subsections 10 (6) and (7) apply to the agreement with necessary modifications. R.S.O. 1990, c. P.15, s. 13 (3); 1997, c. 8, s. 12.

Failure to enter into agreement

(4) If the person who operates the business or owns the special area does not enter into an agreement as subsection (2) requires, the Ontario Provincial Police shall provide police services for the area.

Cost of services

(5) The costs of the services may be recovered from the person by a court action, with costs, as a debt due to Her Majesty. R.S.O. 1990, c. P.15, s. 13 (4, 5).

Police services outside municipality

14. A municipality that has an interest in land outside the territory of the municipality may agree to pay all or part of the cost of providing police services for the land. R.S.O. 1990, c. P.15, s. 14.

Municipal by-law enforcement officers

15. (1) A municipal council may appoint persons to enforce the by-laws of the municipality. R.S.O. 1990, c. P.15, s. 15 (1).

Peace officers

(2) Municipal law enforcement officers are peace officers for the purpose of enforcing municipal by-laws. R.S.O. 1990, c. P.15, s. 15 (2); 1997, c. 8, s. 13.

Aid to survivors of deceased municipal police officers

16. A municipal council may grant financial or other assistance for the benefit of the surviving spouses and children of members of the municipal police force who die from injuries received or illnesses contracted in the discharge of their duties. R.S.O. 1990, c. P.15, s. 16; 1999, c. 6, s. 55 (2); 2005, c. 5, s. 58 (3).

Detention facilities

16.1 Subject to the approval of the Ontario Civilian Police Commission, the council of every local municipality may establish, maintain and regulate detention facilities for the detention and imprisonment of persons sentenced to imprisonment therein for not more than 10 days, and of persons detained for examination on a charge of having committed any offence, or for transfer to any correctional institution for trial, or in the execution of any sentence, and such persons may be lawfully received and so detained in the detention facilities. 2001, c. 25, s. 481; 2007, c. 5, s. 3.

Peace officer in charge

16.2 (1) Every detention facility shall be placed in the charge of a peace officer appointed for that purpose. 2001, c. 25, s. 481.

Salary

(2) The municipal council may provide for and pay the salary or other remuneration of the peace officer in charge of a detention facility. 2001, c. 25, s. 481.

Ontario Provincial Police

Commissioner

17. (1) There shall be a Commissioner of the Ontario Provincial Police who shall be appointed by the Lieutenant Governor in Council. R.S.O. 1990, c. P.15, s. 17 (1).

Functions

(2) Subject to the Solicitor General's direction, the Commissioner has the general control and administration of the Ontario Provincial Police and the employees connected with it. R.S.O. 1990, c. P.15, s. 17 (2).

Deputy Commissioners

(3) The Lieutenant Governor in Council may appoint one or more deputy Commissioners, who shall act in the place of the Commissioner if he or she is absent or unable to act, and who, when so acting, may exercise all the powers and perform all the duties of the Commissioner. 2006, c. 19, Sched. F, s. 5.

Delegation

(3.1) The Commissioner may delegate in writing any of his or her powers and duties under this Act to a deputy Commissioner, subject to any limitations, conditions and requirements set out in the delegation. 2006, c. 19, Sched. F, s. 5.

Annual report

(4) After the end of each calendar year, the Commissioner shall file with the Solicitor General an annual report on the affairs of the Ontario Provincial Police. R.S.O. 1990, c. P.15, s. 17 (4).

Composition of O.P.P.

18. (1) The Ontario Provincial Police shall consist of,

(a) the Commissioner;

(b) other police officers appointed under Part III of the Public Service of Ontario Act, 2006; and

(c) other employees of the Ontario Provincial Police appointed under Part III of the Public Service of Ontario Act, 2006. 2009, c. 18, Sched. 23, s. 15.

Ranks

(2) The Commissioner shall establish the ranks of police officers within the Ontario Provincial Police and shall determine the rank of each police officer. 2009, c. 18, Sched. 23, s. 15.

Commissioned officers

(3) The Lieutenant Governor in Council may name police officers of the Ontario Provincial Police to the rank of commissioned officers and may authorize the issue of commissions to them under the Great Seal. R.S.O. 1990, c. P.15, s. 18 (3).

(4) Repealed: 2009, c. 33, Sched. 9, s. 10 (1).

Responsibilities of O.P.P.

19. (1) The Ontario Provincial Police have the following responsibilities:

1. Providing police services in respect of the parts of Ontario that do not have municipal police forces other than municipal law enforcement officers.

2. Providing police services in respect of all navigable bodies and courses of water in Ontario, except those that lie within municipalities designated by the Solicitor General.
3. Maintaining a traffic patrol on the King's Highway, except the parts designated by the Solicitor General.
4. Maintaining a traffic patrol on the connecting links within the meaning of section 21 of the Public Transportation and Highway Improvement Act that are designated by the Solicitor General.
5. Maintaining investigative services to assist municipal police forces on the Solicitor General's direction or at the Crown Attorney's request. R.S.O. 1990, c. P.15, s. 19 (1); 1997, c. 8, s. 14 (1).

Municipal by-laws

(2) The Ontario Provincial Police have no responsibilities in connection with municipal by-laws, except under agreements made in accordance with section 10. R.S.O. 1990, c. P.15, s. 19 (2).

O.P.P. may charge for services

(3) The Ontario Provincial Police may, with the approval of the Solicitor General, charge a municipality, a law enforcement agency or any prescribed corporation or organization for any service it provides to them under this Act.

Payment into Consolidated Revenue Fund

(4) The amounts received pursuant to a charge imposed under subsection (3) shall be paid into the Consolidated Revenue Fund.

Collection of amounts owed

(5) The amount owed pursuant to a charge imposed under subsection (3), if not collected by other means, may be recovered by a court action, with costs, as a debt due to Her Majesty and, if the amount is owed by a municipality, may be deducted from any grant payable to the municipality out of provincial funds. 1997, c. 8, s. 14 (2).

Aid to survivors of deceased O.P.P. police officers

20. The Lieutenant Governor in Council may, out of money appropriated for that purpose by the Legislature, grant financial or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police who die from injuries received or illnesses contracted in the discharge of their duties. R.S.O. 1990, c. P.15, s. 20; 1999, c. 6, s. 55 (3); 2005, c. 5, s. 58 (4).

PART II

ONTARIO CIVILIAN POLICE COMMISSION

Composition of Commission, etc.

21. (1) The commission known in English as the Ontario Civilian Commission on Police Services and in French as Commission civile des services policiers de l'Ontario is continued as the Ontario Civilian Police Commission in English and Commission civile de l'Ontario sur la police in French. 2007, c. 5, s. 5.

Membership

(2) The Commission shall consist of such members as are appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 15.

Chair, vice-chairs

(3) The Lieutenant Governor in Council may designate one of the members of the Commission to be the chair and one or more members of the Commission to be vice-chairs. 1997, c. 8, s. 15.

Employees

(4) Such employees as are considered necessary for the proper conduct of the affairs of the Commission may be appointed under Part III of the Public Service of Ontario Act, 2006. 2006, c. 35, Sched. C, s. 111 (2).

Delegation

(5) The chair may authorize a member or employee of the Commission to exercise the Commission's powers and perform its duties with respect to a particular matter, but the authority conferred on the Commission by sections 23 and 24 may not be delegated. 1997, c. 8, s. 15.

Quorum

(6) The chair shall determine the number of members of the Commission that constitutes a quorum for any purpose, and may determine that one member constitutes a quorum. 1997, c. 8, s. 15.

Annual report

(7) After the end of each calendar year, the Commission shall file with the Solicitor General an annual report on its affairs. 1997, c. 8, s. 15.

Expenses

(8) The money required for the Commission's purposes shall be paid out of the amounts appropriated by the Legislature for that purpose. 1997, c. 8, s. 15.

Protection from personal liability

(9) No action or other proceeding for damages shall be instituted against a member of the Commission for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of that duty. 1997, c. 8, s. 15.

Confidentiality

(10) Each member of the Commission shall preserve secrecy in respect of all information obtained in the course of his or her duties under this Act and shall not communicate any such information to any person, except,

(a) as may be required in connection with the administration of this Act and the regulations;

(b) to his or her counsel; or

(c) with the consent of the person, if any, to whom the information relates. 2002, c. 18, Sched. N, s. 60.

Exception – law enforcement purposes

(11) Despite subsection (10), the chair of the Commission or his or her designate may communicate any information obtained in the course of their duties under this Act as may be required for law enforcement purposes. 2002, c. 18, Sched. N, s. 60.

Testimony

(12) No member or employee of the Commission shall be required to give testimony in any civil suit or proceeding with regard to information obtained in the course of his or her duties. 2002, c. 18, Sched. N, s. 60.

Powers and duties of Commission

22. (1) The Commission's powers and duties include,

(a) if the Solicitor General advises the Commission that a board or municipal police force is not complying with prescribed standards of police services,

(i) directing the board or police force to comply, and

(ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23 (1);

(b) conducting investigations with respect to appointing officials under the Interprovincial Policing Act, 2009 under section 25;

(c) conducting investigations with respect to municipal police matters under section 25;

(d) conducting inquiries into matters relating to crime and law enforcement under section 26;

(e) conducting inquiries, on its own motion, in respect of a complaint or complaints made about the policies of or services provided by a police force or about the conduct of a police officer and the disposition of such complaint or complaints by a chief of police or board;

(e.1) Repealed: 2007, c. 5, s. 6 (1).

(e.2) making recommendations with respect to the policies of or services provided by a police force by sending the recommendations, with any supporting documents, to the Solicitor General, the chief of police, the association, if any, and, in the case of a municipal police force, the board;

(f) hearing and disposing of matters referred to it by boards and appealed to it by police officers and complainants in accordance with Part V. R.S.O. 1990, c. P.15, s. 22 (1); 1995, c. 4, s. 4 (3); 1997, c. 8, s. 16 (1-3); 2007, c. 5, s. 6 (1, 2); 2009, c. 30, s. 44.

Application of Public Inquiries Act, 2009

(2) Section 33 of the Public Inquiries Act, 2009 applies to an investigation or inquiry conducted by the Commission. 2009, c. 33, Sched. 6, s. 78 (1).

Statutory Powers Procedure Act applicable to hearings

(3) The Statutory Powers Procedure Act does not apply to the Commission, except to a hearing conducted by the Commission under subsection 23 (1), 25 (4), (4.1) or (5), 39 (5), 47 (5), 69 (8), 77 (7), 87 (2), (3) or (4) or 116 (1). 1997, c. 8, s. 16 (4); 2007, c. 5, s. 6 (3).

Sanctions for failure to comply with prescribed standards of police services

23. (1) If the Commission is of the opinion, after holding a hearing, that a board or municipal police force has flagrantly or repeatedly failed to comply with prescribed standards of police services, the Commission may take any of the following measures or any combination of them:

1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
2. Removing the chief of police, one or more members of the board, or the whole board from office.
3. Disbanding the police force and requiring the Ontario Provincial Police to provide police services for the municipality.
4. Appointing an administrator to perform specified functions with respect to police matters in the municipality for a specified period. R.S.O. 1990, c. P.15, s. 23 (1).

(2) Repealed: 1995, c. 4, s. 4 (4).

Note: All hearings before the Ontario Civilian Commission on Police Services under subsection 23 (2) that were commenced but not concluded before December 14, 1995 are hereby discontinued, without costs. See: 1995, c. 4, s. 4 (12).

Suspension with or without pay

(3) If the Commission suspends the chief of police or members of the board who are entitled to remuneration under subsection 27 (12), it shall specify whether the suspension is with or without pay. R.S.O. 1990, c. P.15, s. 23 (3).

(4) Repealed: 1995, c. 4, s. 4 (4).

Powers of administrator

(5) An administrator appointed under paragraph 4 of subsection (1) has all the powers necessary for the performance of his or her functions. R.S.O. 1990, c. P.15, s. 23 (5); 1995, c. 4, s. 4 (5).

Replacement of chief of police

(6) If the Commission suspends or removes the chief of police, it may appoint a person to replace him or her.

Parties

(7) The parties to the hearing are the chief of police, the board, any member of the board that the Commission designates and, if the Commission so directs, the association or associations representing members of the police force.

Idem

(8) The Commission may add parties at any stage of the hearing on the conditions it considers proper.

Replacement of suspended or removed member

(9) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.

Consequences of removal and suspension

(10) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.

Appeal to Divisional Court

(11) A party may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.

Grounds for appeal

(12) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both. R.S.O. 1990, c. P.15, s. 23 (6-12).

(13) Repealed: 1995, c. 4, s. 4 (6).

(14) Repealed: 1995, c. 4, s. 4 (6).

Emergency, interim order

24. (1) The Commission may make an interim order under subsection 23 (1), without notice and without holding a hearing, if it is of the opinion that an emergency exists and that the interim order is necessary in the public interest.

Restriction

(2) The Commission shall not remove a person from office or disband a police force by means of an interim order. R.S.O. 1990, c. P.15, s. 24.

Investigations into police matters

25. (1) The Commission may, on its own motion or at the request of the Solicitor General, the Independent Police Review Director, a municipal council or a board, investigate, inquire into and report on,

(a) the conduct or the performance of duties of a police officer, a municipal chief of police, an auxiliary member of a police force, a special constable, a municipal law enforcement officer or a member of a board;

(a.1) the performance of duties of an appointing official under the Interprovincial Policing Act, 2009;

(b) the administration of a municipal police force;

(c) the manner in which police services are provided for a municipality;

(d) the police needs of a municipality. R.S.O. 1990, c. P.15, s. 25 (1); 1997, c. 8, s. 17 (1, 2); 2007, c. 5, s. 7 (1); 2009, c. 30, s. 45 (1).

Cost of investigation

(2) The cost of an investigation conducted at a council's request shall be paid by the municipality, unless the Solicitor General directs otherwise. R.S.O. 1990, c. P.15, s. 25 (2).

Report

(3) The Commission shall communicate its report of an investigation under subsection (1) to the Solicitor General or the Independent Police Review Director at his or her request and to the board or council at its request, and may communicate the report to any other person as the Commission considers advisable. R.S.O. 1990, c. P.15, s. 25 (3); 2007, c. 5, s. 7 (2).

Officer appointed under the Interprovincial Policing Act, 2009 not to act during investigation, etc.

(3.1) A police officer appointed under the Interprovincial Policing Act, 2009 whose conduct or performance is being investigated or inquired into by the Commission under clause (1) (a) or who is the subject of a hearing before the Commission under that clause shall not perform any police duties in Ontario for the duration of the investigation or inquiry and hearing. 2009, c. 30, s. 45 (2).

Actions taken, police officer, municipal chief of police

(4) If the Commission concludes, after a hearing, that the conduct of a police officer, other than an officer appointed under the Interprovincial Policing Act, 2009, or municipal chief of police is proved on clear and convincing evidence to be misconduct or unsatisfactory work performance, it may direct that any action described in section 85, as specified by the Commission, be taken with respect to the police officer or municipal chief of police or it may direct that the police officer or municipal chief of police be retired if he or she is entitled to retire. 1997, c. 8, s. 17 (3); 2007, c. 5, s. 7 (3); 2009, c. 30, s. 45 (3).

Actions taken, auxiliary member, special constable, municipal law enforcement officer

(4.1) If the Commission concludes, after a hearing, that an auxiliary member of a police force, a special constable or a municipal law enforcement officer is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that,

- (a) the person be demoted as the Commission specifies, permanently or for a specified period;
- (b) the person be dismissed;
- (c) the person be retired, if the person is entitled to retire; or
- (d) the person's appointment be suspended or revoked. 1997, c. 8, s. 17 (3).

Actions taken, officer appointed under the Interprovincial Policing Act, 2009

(4.2) If the Commission concludes, after a hearing, that the conduct of a police officer appointed under the Interprovincial Policing Act, 2009 is proved on clear and convincing evidence to be misconduct or that the police officer is incapable of performing the duties of his or her position in a satisfactory manner, it may do one or both of the following:

1. Terminate the officer's appointment as a police officer in Ontario.
2. Direct that the officer never be appointed again as a police officer in Ontario under the Interprovincial Policing Act, 2009, or not be appointed again as a police officer in Ontario under that Act for a specified period. 2009, c. 30, s. 45 (4).

Actions taken, appointing official

(4.3) If the Commission concludes, after a hearing, that an appointing official is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may revoke the person's designation as an appointing official. 2009, c. 30, s. 45 (4).

Penalties, member of board

(5) If the Commission concludes, after a hearing, that a member of a board is guilty of misconduct or is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may remove or suspend the member. R.S.O. 1990, c. P.15, s. 25 (5).

Appeal to Divisional Court

(6) A member of a police force or of a board on whom a penalty is imposed under subsection (4) or (5) or an appointing official whose designation is revoked under subsection (4.3) may appeal to the Divisional Court within 30 days of receiving notice of the Commission's decision. 2009, c. 30, s. 45 (5).

Grounds for appeal

(7) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both. R.S.O. 1990, c. P.15, s. 25 (7).

Replacement of suspended or removed member

(8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member. R.S.O. 1990, c. P.15, s. 25 (8).

Consequences of removal and suspension

(9) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension. R.S.O. 1990, c. P.15, s. 25 (9).

Inquiries respecting crime and law enforcement

26. (1) The Lieutenant Governor in Council may direct the Commission to inquire into and report to the Lieutenant Governor in Council on any matter relating to crime or law enforcement, and shall define the scope of the inquiry in the direction. R.S.O. 1990, c. P.15, s. 26 (1); 1997, c. 8, s. 18.

(2) Repealed: 2009, c. 33, Sched. 6, s. 78 (2).

Rights of witnesses

(3) Witnesses at inquiries conducted under this section have the right to retain and instruct counsel and all the other rights of witnesses in civil courts. R.S.O. 1990, c. P.15, s. 26 (3).

Offence

(4) Any person who knowingly discloses, without the Commission's consent, evidence taken in private at an inquiry conducted under this section or information likely to identify the witness is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. R.S.O. 1990, c. P.15, s. 26 (4).

PART II.1

INDEPENDENT POLICE REVIEW DIRECTOR

Establishment of Independent Police Review Director

Appointment of Independent Police Review Director

26.1 (1) There shall be an Independent Police Review Director, who shall be appointed by the Lieutenant Governor in Council, on the recommendation of the Attorney General. 2007, c. 5, s. 8.

Restriction

(2) A person who is a police officer or former police officer shall not be appointed as Independent Police Review Director. 2007, c. 5, s. 8.

Remuneration

(3) The Independent Police Review Director shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council. 2007, c. 5, s. 8.

Employees

(4) Such employees as the Independent Police Review Director considers necessary to carry out his or her duties may be appointed under Part III of the Public Service of Ontario Act, 2006. 2006, c. 35, Sched. C, s. 131 (3); 2007, c. 5, s. 8.

Restriction

(5) A person who is a police officer shall not be appointed as an employee in the office of the Independent Police Review Director. 2007, c. 5, s. 8.

Delegation

(6) The Independent Police Review Director may in writing delegate any of his or her powers, duties or functions under this Act to an employee in his or her office, subject to such conditions as the Independent Police Review Director may set out in the delegation. 2007, c. 5, s. 8.

Regional offices

(7) The Independent Police Review Director may establish regional offices, and anything that is given to the Independent Police Review Director under this Act may be given at one of the regional offices. 2007, c. 5, s. 8.

Annual report

(8) After the end of each year, the Independent Police Review Director shall file with the Attorney General an annual report on the affairs of the office of the Independent Police Review Director, and shall make the report available to the public. 2007, c. 5, s. 8.

Confidentiality

(9) The Independent Police Review Director, any employee in the office of the Independent Police Review Director, any investigator appointed under subsection 26.5 (1) and any person exercising powers or performing duties at the direction of the Independent Police Review Director shall preserve secrecy in respect of all information obtained in the course of his or her duties under this Act and shall not communicate any such information to any person except,

(a) as may be required in connection with the administration of this Act and the regulations;

(b) to his or her counsel;

(c) as may be required for law enforcement purposes; or

(d) with the consent of the person, if any, to whom the information relates. 2007, c. 5, s. 8.

Testimony

(10) The Independent Police Review Director, an employee in the office of the Independent Police Review Director, an investigator appointed under subsection 26.5 (1) or a person exercising powers or performing duties at the direction of the Independent Police Review Director shall not be required to give testimony in a civil proceeding with regard to information obtained in the course of his or her duties, except at a hearing held under Part V. 2007, c. 5, s. 8.

Inadmissibility of documents

(11) A document prepared in the course of his or her duties under this Act by the Independent Police Review Director, an employee in the office of the Independent Police Review Director, an investigator appointed under subsection 26.5 (1) or a person exercising powers or performing duties at the direction of the Independent Police Review Director is not admissible in a civil proceeding, except at a hearing held under Part V. 2007, c. 5, s. 8.

Immunity

(12) No action or other proceeding for damages lies or shall be instituted against the Independent Police Review Director, an employee in the office of the Independent Police Review Director, an investigator appointed under subsection 26.5 (1) or a person exercising powers or performing duties at the direction of the Independent Police Review Director, for any act done in good faith in the execution or intended execution of any power or the performance or intended performance of any duty under this Act or for any alleged neglect or default in the execution or performance in good faith of that power or duty. 2007, c. 5, s. 8.

Functions of the Independent Police Review Director

26.2 The functions of the Independent Police Review Director are,

(a) to manage complaints made to him or her by members of the public in accordance with Part V and the regulations; and

(b) to exercise such powers and perform such duties of the Independent Police Review Director as may be prescribed under paragraph 4.1 of subsection 135 (1). 2007, c. 5, s. 8.

Chief to designate liaison

26.3 Every chief of police shall designate a senior officer, as defined in section 114, within his or her police force to serve as a liaison with the Independent Police Review Director. 2007, c. 5, s. 8.

Investigation Powers

Application of Public Inquiries Act, 2009

26.4 Section 33 of the Public Inquiries Act, 2009 applies to an investigation or review under this Act by the Independent Police Review Director or by an investigator appointed under subsection 26.5 (1) or an employee in the office of the Independent Police Review Director who is conducting an investigation or review on behalf of the Independent Police Review Director. 2009, c. 33, Sched. 6, s. 78 (3).

Investigators

26.5 (1) The Independent Police Review Director may appoint as investigators such employees in his or her office or other persons as he or she considers necessary to carry out investigations under Part V or the regulations, and such appointments shall be in writing. 2007, c. 5, s. 8.

Proof of appointment

(2) An investigator shall, when exercising his or her powers of investigation under this Act, produce the appointment if requested to do so. 2007, c. 5, s. 8.

Investigation powers, police premises

26.6 (1) If an investigator believes that to do so is necessary for the purposes of an investigation under this Act, he or she may, on notice to the chief of police or detachment commander of a police force, enter and search the station or detachment of that police force, including any vehicle that is owned by the police force wherever it may be located, at any reasonable time. 2007, c. 5, s. 8.

Powers on entry

(2) An investigator conducting an investigation at a station or detachment of a police force may,

(a) require a person to produce or provide access to any record, thing, data or information that relates to the investigation;

(b) search for, examine, copy or remove any record, thing, data or information that relates to the investigation; and

(c) use any data storage, processing or retrieval device or system used at or available to the premises in order to produce, in readable form, any record, data or information that relates to the investigation. 2007, c. 5, s. 8.

Expert help

(3) The investigator may be accompanied and assisted by persons who have special, expert or professional knowledge. 2007, c. 5, s. 8.

Obligation to produce and assist

(4) If the investigator requires that a person produce or provide access to a record, thing, data or information, the person shall do so in the manner and within the period specified by the investigator and shall, if requested to do so, provide any assistance that is reasonably necessary to permit the investigator to understand the record, thing, data or information. 2007, c. 5, s. 8.

No force

(5) The investigator shall not use force to enter and search a station or detachment of a police force under this section. 2007, c. 5, s. 8.

Order

(6) A justice of the peace or provincial judge may, on application by the investigator without notice, issue an order authorizing an investigator to enter and search premises described in subsection (1) and to exercise any of the powers set out in subsection (2), (3) or (4) if the justice of the peace or provincial judge, as the case may be, is satisfied on information under oath that there are reasonable grounds to suspect that,

(a) the investigator has been prevented from exercising a right of entry to the premises under subsection (1) or has been prevented from exercising a power under subsection (2), (3) or (4); or

(b) the investigator will likely be prevented from exercising a right of entry to the premises under subsection (1) or will likely be prevented from exercising a power under subsection (2), (3) or (4).

2007, c. 5, s. 8.

Conditions

(7) The order may contain terms and conditions in addition to those provided for in subsection (6) as the justice of the peace or provincial judge, as the case may be, considers advisable in the circumstances. 2007, c. 5, s. 8.

Expiry of order

(8) The order is valid for 30 days or for such shorter period as may be specified in it. 2007, c. 5, s. 8.

Further orders

(9) A justice of the peace or provincial judge may issue further orders under subsection (6). 2007, c. 5, s. 8.

Use of force

(10) The investigator named in the order may use whatever force is necessary to execute the order and may call upon a police officer for assistance in executing the order. 2007, c. 5, s. 8.

Investigation powers, other premises

26.7 (1) A justice of the peace or a provincial judge may, on application by an investigator without notice, issue an order in relation to a place other than one to which section 26.6 applies authorizing the investigator to enter the place for which the order is issued and exercise any of the powers set out in the order in relation to a record, thing, data or information listed in the order if the justice of the peace or provincial judge, as the case may be, is satisfied by information under oath that,

(a) the investigation relates to the conduct of a police officer;

(b) there are reasonable grounds to believe that the conduct constitutes misconduct as defined in section 80 or unsatisfactory work performance;

(c) there are reasonable grounds to believe that there is in the place a record, thing, data or information that relates to the investigation; and

(d) it is in the best interests of the administration of justice to issue the order having regard to all relevant matters, including the nature of the place sought to be entered. 2007, c. 5, s. 8.

Powers on entry

(2) The order may, in relation to the investigation, authorize the investigator to exercise any or all of the powers set out in subsection 26.6 (2). 2007, c. 5, s. 8.

Dwelling

(3) Despite subsection (1), the investigator shall not exercise the power under an order to enter a place or part of a place used as a dwelling, unless the justice of the peace or provincial judge is informed that the order is being sought to authorize entry into a dwelling and the order authorizes the entry into the dwelling. 2007, c. 5, s. 8.

Expert help

(4) The order issued under subsection (1) may authorize persons who have special, expert or professional knowledge to accompany and assist the investigator in the execution of the order. 2007, c. 5, s. 8.

Conditions

(5) The order may contain terms and conditions in addition to those provided for in this section as the justice of the peace or provincial judge, as the case may be, considers advisable in the circumstances. 2007, c. 5, s. 8.

Time of execution

(6) The order shall be executed between 6 a.m. and 9 p.m., unless the order specifies otherwise 2007, c. 5, s. 8.

Expiry of order

(7) The order is valid for 30 days or for such shorter period as may be specified in it. 2007, c. 5, s. 8.

Further orders

(8) A justice of the peace or provincial judge may issue further orders under subsection (1). 2007, c. 5, s. 8.

Use of force

(9) The investigator named in the order may use whatever force is necessary to execute the order and may call upon a police officer for assistance in executing the order. 2007, c. 5, s. 8.

Definition

(10) In this section,

“place” includes a building, a receptacle and a vehicle. 2007, c. 5, s. 8.

Records or things removed

26.8 (1) In removing a record or other thing while acting under subsection 26.6 (2) or under an order issued under subsection 26.6 (6) or 26.7 (1), an investigator shall give a receipt to the person from whom the record or thing is removed. 2007, c. 5, s. 8.

Detention of record or thing

(2) A record or other thing removed by an investigator acting under subsection 26.6 (2) or under an order issued under subsection 26.6 (6) may be detained by him or her. 2007, c. 5, s. 8.

Same

(3) The investigator shall return within a reasonable time a record or other thing detained by him or her under subsection (2) to the person from whom the record or thing was removed if the investigator is satisfied that it is no longer necessary to detain the record or thing for the purposes of the investigation or any proceeding under this Act arising from the investigation. 2007, c. 5, s. 8.

Same

(4) Where an investigator has removed a record or other thing under an order issued under subsection 26.7 (1), the investigator, or a person designated by him or her, shall as soon as is reasonably possible,

(a) bring the record or thing before a justice of the peace or provincial judge; or

(b) make a report of the removal of the record or thing to a justice of the peace or provincial judge. 2007, c. 5, s. 8.

Same

(5) When, under subsection (4), a record or other thing that has been removed is brought before a justice of the peace or provincial judge, or a report in respect of it is made to a justice of the peace or provincial judge, he or she shall,

(a) if he or she is satisfied that the record or thing should be detained for the purposes of an investigation or proceeding under this Act arising from the investigation, order that it be detained in the care of the investigator or a person designated by the investigator, or in the care of a person designated by the Independent Police Review Director, until the conclusion of the investigation or proceeding, if any; or

(b) in any other case, order that the record or thing be returned to the person from whom it was removed. 2007, c. 5, s. 8.

Same

(6) On the motion of a person having an interest in a record or thing detained under subsection (2) or clause (5) (a) and on notice to the person from whom the record or thing was removed, the investigator and any other person who has an apparent interest in the record or thing detained, a justice of the peace or provincial judge may make an order for the examination, testing, inspection

or copying of the record or thing, and may specify in the order such conditions as are reasonably necessary in the circumstances. 2007, c. 5, s. 8.

Same

(7) On the motion of a person having an interest in a record or thing detained under subsection (2) or clause (5) (a) and on notice to the person from whom the record or thing was removed, the investigator and any other person who has an apparent interest in the record or thing detained, a justice of the peace or provincial judge may make an order for the release of the record or thing to the person from whom it was removed, if it appears that the record or thing is no longer necessary for the purposes of the investigation or any proceeding under this Act arising from the investigation. 2007, c. 5, s. 8.

Same

(8) Subsection 159 (5) of the Provincial Offences Act applies, with necessary modifications, to an order made under subsection (6) or (7). 2007, c. 5, s. 8.

Copy admissible in evidence

26.9 A copy of a record or other thing that purports to be certified by the investigator as being a true copy of the original is, in the absence of proof to the contrary, admissible in evidence to the same extent as the original, and has the same evidentiary value. 2007, c. 5, s. 8.

PART III

MUNICIPAL POLICE SERVICES BOARDS

Police services boards

27. (1) There shall be a police services board or, as provided in subsection 5 (3), one or more police services boards, for every municipality that maintains a police force. 2002, c. 18, Sched. N, s. 61 (1).

Boards of commissioners of police continued as police services boards

(2) Every board of commissioners of police constituted or continued under the Police Act, being chapter 381 of the Revised Statutes of Ontario, 1980, or any other Act and in existence on the 31st day of December, 1990, is continued as a police services board. R.S.O. 1990, c. P.15, s. 27 (2).

Name

(3) A board shall be known as (insert name of municipality) Police Services Board and may also be known as Commission des services policiers de (insert name of municipality). R.S.O. 1990, c. P.15, s. 27 (3).

Three-member boards in smaller municipalities

(4) The board of a municipality whose population according to the last enumeration taken under section 15 of the Assessment Act does not exceed 25,000 shall consist of,

(a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;

(b) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and

(c) one person appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 19 (1).

Five-member boards in larger municipalities

(5) The board of a municipality whose population according to the last enumeration taken under section 15 of the Assessment Act exceeds 25,000 shall consist of,

(a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;

(b) one member of the council appointed by resolution of the council;

(c) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and

(d) two persons appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 19 (1); 2002, c. 17, Sched. F, Table.

Smaller municipalities, option to expand board

(6) The council of a municipality to which subsection (4) would otherwise apply may determine, by resolution, that the composition of its board shall be as described in subsection (5). R.S.O. 1990, c. P.15, s. 27 (6).

Transition

(7) A resolution passed under clause 8 (2a) (b) of the Police Act, being chapter 381 of the Revised Statutes of Ontario, 1980, before the 31st day of December, 1990, shall be deemed to have been passed under subsection (6). R.S.O. 1990, c. P.15, s. 27 (7).

(8) Repealed: 2002, c. 17, Sched. F, Table.

Seven-member boards in certain circumstances

(9) The council of a municipality whose population according to the last enumeration taken under section 15 of the Assessment Act exceeds 300,000 may apply to the Lieutenant Governor in Council for an increase in the size of its board; if the Lieutenant Governor in Council approves the application, the board shall consist of,

(a) the head of the municipal council or, if the head chooses not to be a member of the board, another member of the council appointed by resolution of the council;

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

(c) one person appointed by resolution of the council, who is neither a member of the council nor an employee of the municipality; and

(d) three persons appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 19 (1).

Vacancies

(10) If the position of a member appointed by the Lieutenant Governor in Council becomes vacant, the Solicitor General may appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment. R.S.O. 1990, c. P.15, s. 27 (10).

Term of office

(10.1) The term of office for a member appointed by resolution of a council shall be as set out by the council in his or her appointment, but shall not exceed the term of office of the council that appointed the member. 1997, c. 8, s. 19 (2).

Same, and reappointment

(10.2) A member appointed by resolution of a council may continue to sit after the expiry of his or her term of office until the appointment of his or her successor, and is eligible for reappointment. 1997, c. 8, s. 19 (2).

Idem

(11) If the position of a member who is appointed by a municipal council or holds office by virtue of being the head of a municipal council becomes vacant, the board shall notify the council, which shall forthwith appoint a replacement. R.S.O. 1990, c. P.15, s. 27 (11).

Remuneration

(12) The council shall pay the members of the board who are appointed by the Lieutenant Governor in Council or Solicitor General remuneration that is at least equal to the prescribed amount. R.S.O. 1990, c. P.15, s. 27 (12).

Persons who are ineligible to be members of a board

(13) A judge, a justice of the peace, a police officer and a person who practises criminal law as a defence counsel may not be a member of a board. 1997, c. 8, s. 19 (3).

Interpretation of municipal populations where more than one board

(14) Where there is more than one board in a municipality pursuant to subsection 5 (3), the references in subsections (4), (5) and (9) to the population of a municipality shall be read as references to the population of the part of the municipality that is served by the board that is the subject of the subsection. 2002, c. 18, Sched. N, s. 61 (2).

(15) Repealed: 1997, c. 8, s. 19 (3).

Election of chair

28. (1) The members of a board shall elect a chair at the board's first meeting in each year. R.S.O. 1990, c. P.15, s. 28.

Vice-chair

(2) The members of a board may also elect a vice-chair at the first meeting in each year, and the vice-chair shall act as the chair if the chair is absent or if the chair's position is vacant. 1997, c. 8, s. 20.

Protection from personal liability

29. (1) 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 his or her duty or for any alleged neglect or default in the execution in good faith of that duty.

Board's liability

(2) Subsection (1) does not relieve a board of liability for a member's acts or omissions, and the board is liable as if that subsection had not been enacted and as if the member were the board's employee. R.S.O. 1990, c. P.15, s. 29.

Board may contract, sue and be sued

30. (1) A board may contract, sue and be sued in its own name.

Members not liable for board's contracts

(2) The members of a board are not personally liable for the board's contracts. R.S.O. 1990, c. P.15, s. 30.

Responsibilities of boards

31. (1) A board is responsible for the provision of adequate and effective police services in the municipality and shall,

(a) appoint the members of the municipal police force;

(b) generally determine, after consultation with the chief of police, objectives and priorities with respect to police services in the municipality;

(c) establish policies for the effective management of the police force;

(d) recruit and appoint the chief of police and any deputy chief of police, and annually determine their remuneration and working conditions, taking their submissions into account;

(e) direct the chief of police and monitor his or her performance;

(f) establish policies respecting the disclosure by chiefs of police of personal information about individuals;

(g) receive regular reports from the chief of police on disclosures and decisions made under section 49 (secondary activities);

(h) establish guidelines with respect to the indemnification of members of the police force for legal costs under section 50;

(i) establish guidelines for dealing with complaints under Part V, subject to subsection (1.1);

(j) review the chief of police's administration of the complaints system under Part V and receive regular reports from the chief of police on his or her administration of the complaints system. R.S.O. 1990, c. P.15, s. 31 (1); 1995, c. 4, s. 4 (7); 1997, c. 8, s. 21 (1-3); 1997, c. 17, s. 8; 2007, c. 5, s. 9 (1).

Restriction

(1.1) Guidelines in respect of complaints made by members of the public under Part V shall not be established by the board unless they are consistent with,

(a) any procedural rules or guidelines for the handling of public complaints established under clause 56 (1) (b) by the Independent Police Review Director; and

(b) any procedure, condition or requirement made by regulation under paragraph 26.4 of subsection 135 (1). 2007, c. 5, s. 9 (2).

Members of police force under board's jurisdiction

(2) The members of the police force, whether they were appointed by the board or not, are under the board's jurisdiction.

Restriction

(3) The board may give orders and directions to the chief of police, but not to other members of the police force, and no individual member of the board shall give orders or directions to any member of the police force.

Idem

(4) The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.

Training of board members

(5) The board shall ensure that its members undergo any training that the Solicitor General may provide or require.

Rules re management of police force

(6) The board may, by by-law, make rules for the effective management of the police force. R.S.O. 1990, c. P.15, s. 31 (2-6).

Guidelines re secondary activities

(7) The board may establish guidelines consistent with section 49 for disclosing secondary activities and for deciding whether to permit such activities. 1997, c. 8, s. 21 (4).

Oath of office

32. Before entering on the duties of office, a member of a board shall take an oath or affirmation of office in the prescribed form. R.S.O. 1990, c. P.15, s. 32.

Agreement to constitute joint board

33. (1) Despite any special Act, the councils of two or more municipalities may enter into an agreement to constitute a joint board.

Consent of Solicitor General required

(2) The agreement must be authorized by by-laws of the councils of the participating municipalities and requires the consent of the Solicitor General.

Application of Act to joint boards

(3) The provisions of this Act that apply to boards also apply with necessary modifications to joint boards.

Three-member joint boards

(4) The joint board of municipalities whose combined population according to the last enumeration taken under section 15 of the Assessment Act does not exceed 25,000 shall consist of,

(a) one person who is a member of the council of a participating municipality, appointed by agreement of the councils of the participating municipalities;

(b) one person appointed by agreement of the councils of the participating municipalities, who is neither a member of a council of a participating municipality nor an employee of a participating municipality; and

(c) one person appointed by the Lieutenant Governor in Council.

Five-member joint boards

(5) The joint board of municipalities whose combined population according to the last enumeration taken under section 15 of the Assessment Act exceeds 25,000 shall consist of,

(a) two persons who are members of the councils of any participating municipalities, appointed by agreement of the councils of the participating municipalities;

(b) one person appointed by agreement of the councils of the participating municipalities, who is neither a member of a council of a participating municipality nor an employee of a participating municipality; and

(c) two persons appointed by the Lieutenant Governor in Council.

Option to expand joint board

(6) The councils of participating municipalities to which subsection (4) would otherwise apply may determine, by resolution of each of them, that the composition of their joint board shall be as described in subsection (5).

Seven-member joint boards

(7) Where the combined population of the participating municipalities according to the last enumeration taken under section 15 of the Assessment Act exceeds 300,000, the councils of the participating municipalities may apply to the Lieutenant Governor in Council for an increase in the size of their joint board; if the Lieutenant Governor in Council approves the application, the joint board shall consist of,

(a) three persons who are members of the councils of any participating municipalities, appointed by agreement of the councils of the participating municipalities;

(b) one person appointed by agreement of the councils of the participating municipalities, who is neither a member of a council of a participating municipality nor an employee of a participating municipality; and

(c) three persons appointed by the Lieutenant Governor in Council. 1997, c. 8, s. 22.

Delegation

34. A board may delegate to two or more of its members any authority conferred on it by this Act, except,

(a) Repealed: 1997, c. 8, s. 23.

(b) the authority to bargain under Part VIII, which the board may delegate to one or more members. R.S.O. 1990, c. P.15, s. 34; 1997, c. 8, s. 23.

Meetings

35. (1) The board shall hold at least four meetings each year.

Quorum

(2) A majority of the members of the board constitutes a quorum.

Proceedings open to the public

(3) Meetings and hearings conducted by the board shall be open to the public, subject to subsection (4), and notice of them shall be published in the manner that the board determines.

Exception

(4) The board may exclude the public from all or part of a meeting or hearing if it is of the opinion that,

(a) matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public; or

(b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any

person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public. R.S.O. 1990, c. P.15, s. 35.

Evidence of by-laws

36. A document purporting to be a by-law of the board signed by a member or purporting to be a copy of such a by-law certified correct by a member is admissible in evidence without proof of the signature or authority of the person signing. R.S.O. 1990, c. P.15, s. 36.

Rules and procedures

37. A board shall establish its own rules and procedures in performing its duties under this Act and, except when conducting a hearing under subsection 65 (9), the Statutory Powers Procedure Act does not apply to a board. 1997, c. 8, s. 24.

Municipal police force

38. A municipal police force shall consist of a chief of police employed by the police force and such other police officers employed by the police force and other employees of the police force as are adequate, and shall be provided with adequate equipment and facilities. 2009, c. 30, s. 46.

Estimates

39. (1) The board shall submit operating and capital estimates to the municipal council that will show, separately, the amounts that will be required,

(a) to maintain the police force and provide it with equipment and facilities; and

(b) to pay the expenses of the board's operation other than the remuneration of board members.

Same

(2) The format of the estimates, the period that they cover and the timetable for their submission shall be as determined by the council.

Budget

(3) Upon reviewing the estimates, the council shall establish an overall budget for the board for the purposes described in clauses (1) (a) and (b) and, in doing so, the council is not bound to adopt the estimates submitted by the board.

Same

(4) In establishing an overall budget for the board, the council does not have the authority to approve or disapprove specific items in the estimates.

Commission hearing in case of dispute

(5) If the board is not satisfied that the budget established for it by the council is sufficient to maintain an adequate number of police officers or other employees of the police force or to provide

the police force with adequate equipment or facilities, the board may request that the Commission determine the question and the Commission, shall, after a hearing, do so. 1997, c. 8, s. 26.

Reduction or abolition of police force

40. (1) A board may terminate the employment of a member of the police force for the purpose of abolishing the police force or reducing its size if the Commission consents and if the abolition or reduction does not contravene this Act.

Criteria for Commission's consent

(2) The Commission shall consent to the termination of the employment of a member of the police force under subsection (1) only if,

(a) the member and the board have made an agreement dealing with severance pay or agreed to submit the matter to arbitration; or

(b) the Commission has made an order under subsection (3).

Order imposing arbitration

(3) If the member and the board do not make an agreement dealing with severance pay and do not agree to submit the matter to arbitration, the Commission, if it is of the opinion that it would be appropriate to permit the abolition of the police force or the reduction of its size, may order the member and the board to submit the matter to arbitration and may give any necessary directions in that connection.

Arbitration

(4) Section 124 applies to an arbitration referred to in this section with necessary modifications. R.S.O. 1990, c. P.15, s. 40.

PART IV

POLICE OFFICERS AND OTHER POLICE STAFF

Chief of Police

Duties of chief of police

41. (1) The duties of a chief of police include,

(a) in the case of a municipal police force, administering the police force and overseeing its operation in accordance with the objectives, priorities and policies established by the board under subsection 31 (1);

(b) ensuring that members of the police force carry out their duties in accordance with this Act and the regulations and in a manner that reflects the needs of the community, and that discipline is maintained in the police force;

(c) ensuring that the police force provides community-oriented police services;

(d) administering the complaints system in accordance with Part V. R.S.O. 1990, c. P.15, s. 41 (1); 1995, c. 4, s. 4 (8, 9); 1997, c. 8, s. 27.

Power to disclose personal information

(1.1) Despite any other Act, a chief of police, or a person designated by him or her for the purpose of this subsection, may disclose personal information about an individual in accordance with the regulations. 1997, c. 17, s. 9.

Purpose of disclosure

(1.2) Any disclosure made under subsection (1.1) shall be for one or more of the following purposes:

1. Protection of the public.
2. Protection of victims of crime.
3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.
4. Law enforcement.
5. Correctional purposes.
6. Administration of justice.
7. Enforcement of and compliance with any federal or provincial Act, regulation or government program.
8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual. 1997, c. 17, s. 9.

Same

(1.3) Any disclosure made under subsection (1.1) shall be deemed to be in compliance with clauses 42 (1) (e) of the Freedom of Information and Protection of Privacy Act and 32 (e) of the Municipal Freedom of Information and Protection of Privacy Act. 1997, c. 17, s. 9; 2006, c. 34, Sched. C, s. 27.

Same

(1.4) If personal information is disclosed under subsection (1.1) to a ministry, agency or institution, the ministry, agency or institution shall collect such information and subsections 39 (2) of the Freedom of Information and Protection of Privacy Act and 29 (2) of the Municipal Freedom of Information and Protection of Privacy Act do not apply to that collection of personal information. 1997, c. 17, s. 9.

Chief of police reports to board

(2) The chief of police reports to the board and shall obey its lawful orders and directions. R.S.O. 1990, c. P.15, s. 41 (2).

Police Officers

Duties of police officer

42. (1) The duties of a police officer include,

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;
- (d) apprehending criminals and other offenders and others who may lawfully be taken into custody;
- (e) laying charges and participating in prosecutions;
- (f) executing warrants that are to be executed by police officers and performing related duties;
- (g) performing the lawful duties that the chief of police assigns;
- (h) in the case of a municipal police force and in the case of an agreement under section 10 (agreement for provision of police services by O.P.P.), enforcing municipal by-laws;
- (i) completing the prescribed training. R.S.O. 1990, c. P.15, s. 42 (1); 1997, c. 8, s. 28.

Power to act throughout Ontario

(2) A police officer has authority to act as such throughout Ontario.

Powers and duties of common law constable

(3) A police officer has the powers and duties ascribed to a constable at common law. R.S.O. 1990, c. P.15, s. 42 (2, 3).

Criteria for hiring

43. (1) No person shall be appointed as a police officer unless he or she,

- (a) is a Canadian citizen or a permanent resident of Canada;
- (b) is at least eighteen years of age;
- (c) is physically and mentally able to perform the duties of the position, having regard to his or her own safety and the safety of members of the public;

(d) is of good moral character and habits; and

(e) has successfully completed at least four years of secondary school education or its equivalent. R.S.O. 1990, c. P.15, s. 43 (1).

Idem

(2) A candidate for appointment as a police officer shall provide any relevant information or material that is lawfully requested in connection with his or her application. R.S.O. 1990, c. P.15, s. 43 (2).

Exception

(3) This section does not apply to a police officer appointed under the Interprovincial Policing Act, 2009 or to a candidate for appointment under that Act. 2009, c. 30, s. 47.

Probationary period

44. (1) A municipal police officer's probationary period begins on the day he or she is appointed and ends on the later of,

(a) the first anniversary of the day of appointment;

(b) the first anniversary of the day the police officer completes an initial period of training at the Ontario Police College.

Time for completing initial training

(2) The police officer shall complete the initial period of training within six months of the day of appointment. R.S.O. 1990, c. P.15, s. 44 (1, 2).

Termination of employment during probationary period

(3) A board may terminate a police officer's employment at any time during his or her probationary period but, before doing so, shall give the police officer reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing, as the board may determine. R.S.O. 1990, c. P.15, s. 44 (3); 1997, c. 8, s. 29 (1).

Part V does not apply

(3.1) Part V does not apply in the case of the termination of a police officer's employment under subsection (3). 1997, c. 8, s. 29 (2).

Only one probationary period

(4) Subsections (1), (2) and (3) do not apply to a police officer who has completed a probationary period with another municipal police force, the Ontario Provincial Police, the Royal Canadian Mounted Police or a prescribed police force outside Ontario. R.S.O. 1990, c. P.15, s. 44 (4); 1997, c. 8, s. 29 (3).

Oaths of office and secrecy

45. (1) A person appointed to be a police officer shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. R.S.O. 1990, c. P.15, s. 45.

Exception

(2) This section does not apply to a police officer appointed under the Interprovincial Policing Act, 2009. 2009, c. 30, s. 48.

Political activity

46. No municipal police officer shall engage in political activity, except as the regulations permit. R.S.O. 1990, c. P.15, s. 46.

Members of Police Forces

Accommodation of needs of disabled employee of municipal police force

47. (1) Subject to subsection (2), if an employee of a municipal police force becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the board shall accommodate his or her needs in accordance with the Human Rights Code. R.S.O. 1990, c. P.15, s. 47 (1); 2009, c. 30, s. 49 (1).

Undue hardship

(2) The board may discharge the employee, or retire him or her if entitled to retire, if, after holding a hearing at which the evidence of two legally qualified medical practitioners is received, the board,

(a) determines, on the basis of that evidence, that the employee is mentally or physically disabled and as a result incapable of performing the essential duties of the position, and what duties the employee is capable of performing; and

(b) concludes that the employee's needs cannot be accommodated without undue hardship on the board. R.S.O. 1990, c. P.15, s. 47 (2); 2009, c. 30, s. 49 (2).

Idem, O.P.P.

(3) Subject to subsection (4), if an employee of the Ontario Provincial Police becomes mentally or physically disabled and as a result is incapable of performing the essential duties of the position, the Commissioner shall accommodate the employee's needs in accordance with the Human Rights Code. R.S.O. 1990, c. P.15, s. 47 (3); 2009, c. 30, s. 49 (3, 4).

Idem

(4) The employee may be discharged, or retired if entitled to retire, if, after holding a hearing at which the evidence of two legally qualified medical practitioners is received, the Commissioner or a person whom he or she designates,

(a) determines, on the basis of that evidence, that the employee is mentally or physically disabled and as a result incapable of performing the essential duties of the position, and what duties the employee is capable of performing; and

(b) concludes that the employee's needs cannot be accommodated without undue hardship on the Crown in right of Ontario. R.S.O. 1990, c. P.15, s. 47 (4); 2009, c. 30, s. 49 (5).

Appeal

(5) An employee of a police force who is discharged or retired under subsection (2) or (4) may appeal to the Commission by serving a written notice on the Commission and on the board or the Commissioner, as the case may be, within thirty days of receiving notice of the decision. R.S.O. 1990, c. P.15, s. 47 (5); 2009, c. 30, s. 49 (6).

Powers of Commission

(6) The Commission may confirm, alter or revoke the decision or may require the board or Commissioner, as the case may be, to rehear the matter. R.S.O. 1990, c. P.15, s. 47 (6).

Decision

(7) The Commission shall promptly give written notice of its decision, with reasons, to the appellant and to the board or Commissioner, as the case may be. R.S.O. 1990, c. P.15, s. 47 (7).

Participation of members of Commission

(8) No member of the Commission shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the consent of the appellant, no decision of the Commission shall be given unless all members who were present throughout the hearing participate in the decision. R.S.O. 1990, c. P.15, s. 47 (8).

48. Repealed: 1995, c. 4, s. 4 (10).

Restrictions on secondary activities

49. (1) A member of a police force shall not engage in any activity,

(a) that interferes with or influences adversely the performance of his or her duties as a member of a police force, or is likely to do so;

(b) that places him or her in a position of conflict of interest, or is likely to do so;

(c) that would otherwise constitute full-time employment for another person; or

(d) in which he or she has an advantage derived from being a member of a police force. R.S.O. 1990, c. P.15, s. 49 (1); 2009, c. 30, s. 50 (1).

Exception, officer appointed under the Interprovincial Policing Act, 2009

(1.1) Clause (1) (c) does not apply to a police officer appointed under the Interprovincial Policing Act, 2009. 2009, c. 30, s. 50 (2).

Exception, paid duty

(2) Clause (1) (d) does not prohibit a member of a police force from performing, in a private capacity, services that have been arranged through the police force. R.S.O. 1990, c. P.15, s. 49 (2).

Disclosure to chief of police

(3) A member of a police force who proposes to undertake an activity that may contravene subsection (1) or who becomes aware that an activity that he or she has already undertaken may do so shall disclose full particulars of the situation to the chief of police or, in the case of a chief of police, to the board. R.S.O. 1990, c. P.15, s. 49 (3); 1997, c. 8, s. 30 (1).

Decision of chief of police or board

(4) The chief of police or the board, as the case may be, shall decide whether the member is permitted to engage in the activity and the member shall comply with that decision. R.S.O. 1990, c. P.15, s. 49 (4); 1997, c. 8, s. 30 (2).

Liability for torts

50. (1) The board or the Crown in right of Ontario, as the case may be, is liable in respect of torts committed by members of the police force in the course of their employment. R.S.O. 1990, c. P.15, s. 50 (1).

Indemnification of member of municipal police force

(2) The board may, in accordance with the guidelines established under clause 31 (1) (h), indemnify a member of the police force for reasonable legal costs incurred,

(a) in the defence of a civil action, if the member is not found to be liable;

(b) in the defence of a criminal prosecution, if the member is found not guilty;

(c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith. R.S.O. 1990, c. P.15, s. 50 (2).

Agreement

(3) A majority of the members of a police force and the board may, in an agreement made under Part VIII, provide for indemnification for the legal costs of members of the police force, except the legal costs of a member who is found guilty of a criminal offence; if such an agreement exists, the board shall indemnify members in accordance with the agreement and subsection (2) does not apply. R.S.O. 1990, c. P.15, s. 50 (3); 1997, c. 8, s. 31 (1).

Council responsible for board's liabilities

(4) The council is responsible for the liabilities incurred by the board under subsections (1), (2) and (3). R.S.O. 1990, c. P.15, s. 50 (4).

Indemnification of member of O.P.P.

(5) The Minister of Finance may indemnify, out of the Consolidated Revenue Fund, a member of the Ontario Provincial Police for reasonable legal costs incurred,

(a) in the defence of a civil action, if the member is not found to be liable;

(b) in the defence of a criminal prosecution, if the member is found not guilty;

(c) in respect of any other proceeding in which the member's manner of execution of the duties of his or her employment was an issue, if the member is found to have acted in good faith. R.S.O. 1990, c. P.15, s. 50 (5); 1997, c. 8, s. 31 (2).

Agreement

(6) The Ontario Provincial Police Association and the Crown in right of Ontario may, in an agreement made under the Ontario Provincial Police Collective Bargaining Act, 2006 or under a predecessor of that Act, including Part II of the Public Service Act as it read immediately before its repeal, provide for indemnification for the legal costs of members of the police force, except the legal costs of a member who is found guilty of a criminal offence; if such an agreement exists, the Minister of Finance shall indemnify members in accordance with the agreement and subsection (5) does not apply. R.S.O. 1990, c. P.15, s. 50 (6); 1997, c. 8, s. 31 (3); 2006, c. 35, Sched. C, s. 111 (3).

Exception, officer appointed under the Interprovincial Policing Act, 2009

(7) This section does not apply in respect of a police officer appointed under the Interprovincial Policing Act, 2009. 2009, c. 30, s. 51.

Police cadets

51. (1) With the board's approval, a municipal chief of police may appoint persons as police cadets to undergo training.

Idem

(2) A police cadet is a member of the municipal police force. R.S.O. 1990, c. P.15, s. 51.

Auxiliary members of municipal police force

52. (1) With the Solicitor General's approval, a board may appoint auxiliary members of the police force. R.S.O. 1990, c. P.15, s. 52 (1); 1997, c. 8, s. 32 (1).

Notice of suspension or termination

(2) If the board suspends or terminates the appointment of an auxiliary member of the police force, it shall promptly give the Solicitor General written notice of the suspension or termination. 1997, c. 8, s. 32 (2).

Auxiliary members of O.P.P.

(3) The Commissioner may appoint auxiliary members of the Ontario Provincial Police. R.S.O. 1990, c. P.15, s. 52 (3).

Same

(3.1) The Commissioner also has the power to suspend or terminate the appointment of an auxiliary member of the police force.

Information and opportunity to reply

(3.2) Before the auxiliary member's appointment is terminated under subsection (2) or (3.1), he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing, as the board or Commissioner, as the case may be, may determine. 1997, c. 8, s. 32 (3).

Authority of auxiliary members of police force

(4) An auxiliary member of a police force has the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the chief of police.

Restriction

(5) The chief of police may authorize an auxiliary member of the police force to perform police duties only in special circumstances, including an emergency, that the police officers of the police force are not sufficiently numerous to deal with.

Oaths of office and secrecy

(6) A person appointed to be an auxiliary member of a police force shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. R.S.O. 1990, c. P.15, s. 52 (4-6).

Special Constables

Appointment of special constables

By board

53. (1) With the Solicitor General's approval, a board may appoint a special constable to act for the period, area and purpose that the board considers expedient. R.S.O. 1990, c. P.15, s. 53 (1); 1997, c. 8, s. 33 (1).

By Commissioner

(2) With the Solicitor General's approval, the Commissioner may appoint a special constable to act for the period, area and purpose that the Commissioner considers expedient. R.S.O. 1990, c. P.15, s. 53 (2); 1997, c. 8, s. 33 (2).

Powers of police officer

(3) The appointment of a special constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment.

Restriction

(4) A special constable shall not be employed by a police force to perform on a permanent basis, whether part-time or full-time, all the usual duties of a police officer. R.S.O. 1990, c. P.15, s. 53 (3, 4).

Idem

(5) Subsection (4) does not prohibit police forces from authorizing special constables to escort and convey persons in custody and to perform duties related to the responsibilities of boards under Part X. R.S.O. 1990, c. P.15, s. 53 (5); 1997, c. 8, s. 33 (3).

Suspension or termination of appointment

(6) The power to appoint a special constable includes the power to suspend or terminate the appointment, but if a board or the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Solicitor General.

Same

(7) The Solicitor General also has power to suspend or terminate the appointment of a special constable.

Information and opportunity to reply

(8) Before a special constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the board, Commissioner or Solicitor General, as the case may be, may determine. 1997, c. 8, s. 33 (4).

Oaths of office and secrecy

(9) A person appointed to be a special constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. R.S.O. 1990, c. P.15, s. 53 (9).

First Nations Constables

First Nations Constables

54. (1) With the Commission's approval, the Commissioner may appoint a First Nations Constable to perform specified duties.

Further approval

(2) If the specified duties of a First Nations Constable relate to a reserve as defined in the Indian Act (Canada), the appointment also requires the approval of the reserve's police governing authority or band council.

Powers of police officer

(3) The appointment of a First Nations Constable confers on him or her the powers of a police officer for the purpose of carrying out his or her specified duties.

Duty to consult

(4) The Commissioner shall not suspend or terminate the appointment of a First Nations Constable whose specified duties relate to a reserve without first consulting with the police governing authority or band council that approved the appointment. R.S.O. 1990, c. P.15, s. 54 (1-4).

Suspension or termination of appointment

(5) The power to appoint a First Nations Constable includes the power to suspend or terminate the appointment, but if the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission. R.S.O. 1990, c. P.15, s. 54 (5); 1997, c. 8, s. 34 (1).

Commission

(6) The Commission also has power to suspend or terminate the appointment of a First Nations Constable. R.S.O. 1990, c. P.15, s. 54 (6); 1997, c. 8, s. 34 (2).

Information and opportunity to reply

(7) Before a First Nations Constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Commissioner or Commission, as the case may be, may determine. R.S.O. 1990, c. P.15, s. 54 (7); 1997, c. 8, s. 34 (3).

Oaths of office and secrecy

(8) A person appointed to be a First Nations Constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form. R.S.O. 1990, c. P.15, s. 54 (8).

Emergencies

Emergencies

55. (1) In an emergency, the Solicitor General may make an agreement with the Crown in right of Canada or of another province or with any of its agencies for the provision of police services.

Authority to act as police officers

(2) The agreement authorizes all peace officers to whom it relates to act as police officers in the area to which the agreement relates. R.S.O. 1990, c. P.15, s. 55 (1, 2).

Application

(3) For the purposes of the insurance plan established under the Workplace Safety and Insurance Act, 1997, the relationship between a member of a police force and the body that employs him or her continues as if an agreement had not been made under this section. R.S.O. 1990, c. P.15, s. 55 (3); 1997, c. 16, s. 12.

Expense of calling out Canadian Forces

(4) If the services of the Canadian Forces are provided under this section, the municipality in whose territory the services are required shall pay all the related expenses.

Resignation during emergency prohibited

(5) Subject to sections 33 and 34 of the National Defence Act (Canada), while an agreement made under this section is in force, no member of a police force that has jurisdiction in the area to which the agreement relates shall resign without the consent of the chief of police. R.S.O. 1990, c. P.15, s. 55 (4, 5).

PART V

COMPLAINTS AND DISCIPLINARY PROCEEDINGS

Public Complaints Made to the Independent Police Review Director

Powers of Independent Police Review Director

56. (1) For the purposes of this Part, the Independent Police Review Director may,

(a) establish procedural rules for anything related to the powers, duties or functions of the Independent Police Review Director under this Part;

(b) establish procedural rules and guidelines for the handling by chiefs of police and boards of complaints made by members of the public under this Part; and

(c) provide guidance to assist chiefs of police and boards in the handling of complaints made by members of the public under this Part. 2007, c. 5, s. 10.

Publicly available

(2) Procedural rules established by the Independent Police Review Director under clause (1) (a) shall be in writing and shall be made available to the public in a readily accessible manner. 2007, c. 5, s. 10.

Not a regulation

(3) A rule or guideline established by the Independent Police Review Director under subsection (1) is not a regulation within the meaning of Part III of the Legislation Act, 2006. 2007, c. 5, ss. 10, 13 (3).

Review of systemic issues

57. In addition to his or her other functions under this Act, the Independent Police Review Director may examine and review issues of a systemic nature that are the subject of, or that give rise to, complaints made by members of the public under this Part and may make recommendations respecting such issues to the Solicitor General, the Attorney General, chiefs of police, boards, or any other person or body. 2007, c. 5, s. 10.

Complaint may be made to Independent Police Review Director

58. (1) Any member of the public may make a complaint under this Part to the Independent Police Review Director about,

(a) the policies of or services provided by a police force; or

(b) the conduct of a police officer. 2007, c. 5, s. 10.

Prohibition

(2) Despite subsection (1), the following persons cannot make a complaint to the Independent Police Review Director:

1. The Solicitor General.

2. An employee in the office of the Independent Police Review Director.

3. A member or employee of the Commission.

4. A member or auxiliary member of a police force, if that police force or another member of that police force is the subject of the complaint.

5. Repealed: 2009, c. 33, Sched. 2, s. 60 (1).

6. A member or employee of a board, if the board is responsible for the police force that is, or a member of which is, the subject of the complaint.

7. A person selected by the council of a municipality to advise another municipality's board under subsection 6.1 (2), if the board is responsible for the police force that is, or a member of which is, the subject of the complaint.

8. A delegate to a community policing advisory committee established under subsection 5.1 (4), if the community policing advisory committee advises the detachment commander of the Ontario Provincial Police detachment that is, or a member of which is, the subject of the complaint. 2007, c. 5, s. 10; 2009, c. 33, Sched. 2, s. 60 (1).

Complaint through agent

(3) A complainant under subsection (1) may act through an agent in respect of a complaint made under this Part. 2007, c. 5, s. 10.

Public education, assistance

(4) The Independent Police Review Director shall provide publicly accessible information about the public complaints system under this Part and shall arrange for the provision of assistance to members of the public in making a complaint. 2007, c. 5, s. 10.

Interpretation, portion of a complaint

(5) This Part applies to a portion of a complaint as if it were a complaint, unless the context indicates otherwise. 2007, c. 5, s. 10.

Complaints about Ontario police officers acting in another province or territory

58.1 (1) On receipt of a report from a person or body responsible for reviewing complaints about police officers in another province or a territory about a complaint made against an Ontario police officer appointed to act as a police officer in that province or territory, the Solicitor General, a chief of police or a board shall forward the report to the Independent Police Review Director. 2009, c. 30, s. 52.

Same

(2) On receipt of a report described in subsection (1), either directly from the person or body that prepared the report or from the Solicitor General, a chief of police or a board, the Independent Police Review Director shall deal with the complaint under this Part as if it were made by a member of the public in respect of a police officer's conduct in Ontario. 2009, c. 30, s. 52.

Same

(3) In dealing with a complaint as provided by subsection (2), the complainant, for the purposes of this Part, is the person or entity that brought the complaint in the other province or territory and the person or body that prepared the report. 2009, c. 30, s. 52.

Independent Police Review Director to review complaints

59. (1) The Independent Police Review Director shall review every complaint made to him or her by a member of the public under this Part, and shall determine whether the complaint is about the policies of or services provided by a police force or about the conduct of a police officer. 2007, c. 5, s. 10.

Independent Police Review Director to refer, retain

(2) Subject to section 60, the Independent Police Review Director shall ensure that every complaint reviewed under subsection (1) is referred or retained and dealt with in accordance with section 61. 2007, c. 5, s. 10.

Power of Independent Police Review Director to refuse

60. (1) The Independent Police Review Director may, in accordance with this section, decide not to deal with a complaint made to him or her by a member of the public under this Part. 2007, c. 5, s. 10.

Limitation, six months

(2) The Independent Police Review Director may decide not to deal with a complaint made by a member of the public if the complaint is made more than six months after the facts on which it is based occurred. 2007, c. 5, s. 10.

Same

(3) In making a determination under subsection (2), the Independent Police Review Director shall consider,

(a) whether the complainant is a minor or is under a disability within the meaning of the Accessibility for Ontarians with Disabilities Act, 2005;

(b) whether the complainant is or was subject to criminal proceedings in respect of the events underlying the complaint; and

(c) whether, having regard to all the circumstances, it is in the public interest for the complaint to be dealt with. 2007, c. 5, s. 10.

Frivolous, vexatious, etc.

(4) The Independent Police Review Director may decide not to deal with a complaint made by a member of the public if, in his or her opinion, one of the following applies:

1. The complaint is frivolous or vexatious or made in bad faith.

2. The complaint could be more appropriately dealt with, in whole or in part, under another Act or other law.

3. Having regard to all the circumstances, dealing with the complaint is not in the public interest. 2007, c. 5, s. 10.

Not affected by policy or service

(5) The Independent Police Review Director may decide not to deal with a complaint made by a member of the public about a policy of or service provided by a police force if the policy or service did not have a direct effect on the complainant. 2007, c. 5, s. 10.

Not affected by conduct

(6) The Independent Police Review Director may decide not to deal with a complaint made by a member of the public about the conduct of a police officer if the complainant is not one of the following:

1. A person at whom the conduct was directed.

2. A person who saw or heard the conduct or its effects as a result of being physically present at the time and place that the conduct or its effects occurred.

3. A person who,

i. was in a personal relationship with a person described in paragraph 1 at the time that the conduct occurred, and

ii. suffered loss, damage, distress, danger or inconvenience as a result of the conduct.

4. A person who has knowledge of the conduct, or has in his or her possession or under his or her control anything relating to the conduct, if, in the Independent Police Review Director's opinion, the knowledge or thing constitutes compelling evidence that the conduct complained of is misconduct as defined in section 80 or unsatisfactory work performance and the evidence would likely be admissible in a court proceeding. 2007, c. 5, s. 10.

Notice

(7) If the Independent Police Review Director decides not to deal with a complaint, other than a complaint described in subsection (9), in accordance with this section, he or she shall notify the complainant and the chief of police of the police force to which the matter relates in writing of the decision, with reasons, and in the case of the chief of police, shall also give notice of the substance of the complaint. 2009, c. 30, s. 53 (1).

Same

(8) On receipt of a notice under subsection (7) relating to a complaint about the conduct of a police officer other than the chief of police, the chief of police shall promptly notify the police officer who is the subject of the complaint in writing of the substance of the complaint, and of the Independent Police Review Director's decision not to deal with the complaint, with reasons. 2007, c. 5, s. 10.

Same, officer appointed under Interprovincial Policing Act, 2009

(9) If the Independent Police Review Director decides not to deal with a complaint about the conduct of a police officer appointed under the Interprovincial Policing Act, 2009 in accordance with this section, he or she shall notify the complainant and the appointing official or local commander who appointed the police officer under that Act, or a prescribed appointing official, in writing of the decision, with reasons and the substance of the complaint, and the appointing official or local commander shall in turn give the same notification to the police officer who is the subject of the complaint and his or her extra-provincial commander. 2009, c. 30, s. 53 (2).

Complaints referred, retained

61. (1) This section applies to every complaint made to the Independent Police Review Director by a member of the public under this Part, unless the Independent Police Review Director has decided not to deal with the complaint in accordance with section 60. 2007, c. 5, s. 10.

Complaints about municipal force policies

(2) A complaint about the policies of or services provided by a municipal police force shall be referred by the Independent Police Review Director to the municipal chief of police and dealt with under section 63. 2007, c. 5, s. 10.

Complaints about local O.P.P. policies

(3) A complaint about the local policies, established under clause 10 (9) (c), of an Ontario Provincial Police detachment that is providing police services pursuant to an agreement entered into under section 10 shall be referred by the Independent Police Review Director to the detachment commander and dealt with under section 64. 2007, c. 5, s. 10.

Complaints about provincial O.P.P. policies, services

(4) A complaint about the provincial policies of the Ontario Provincial Police or about services provided by the Ontario Provincial Police, other than those services provided pursuant to an agreement under section 10, shall be referred by the Independent Police Review Director to the Commissioner and dealt with under section 65. 2007, c. 5, s. 10.

Complaints about officer other than chief

(5) A complaint about the conduct of a police officer, other than a chief of police, deputy chief of police or a police officer appointed under the Interprovincial Policing Act, 2009, shall be,

(a) referred by the Independent Police Review Director to the chief of police of the police force to which the complaint relates and dealt with under section 66;

(b) referred by the Independent Police Review Director to the chief of police of a police force other than the police force to which the complaint relates and dealt with under section 67; or

(c) retained by the Independent Police Review Director and dealt with under section 68. 2009, c. 30, s. 54.

Same, officer appointed under the Interprovincial Policing Act, 2009

(5.1) A complaint about the conduct of a police officer appointed under the Interprovincial Policing Act, 2009 shall be,

(a) referred by the Independent Police Review Director to any chief of police and dealt with under section 68.1; or

(b) retained by the Independent Police Review Director and dealt with under section 68.2. 2009, c. 30, s. 54.

Same

(6) In exercising his or her discretion under subsection (5) or (5.1), the Independent Police Review Director shall consider the nature of the complaint and the public interest. 2009, c. 30, s. 54.

Same

(7) The Independent Police Review Director may, in referring a complaint to a chief of police under subsection (5) or (5.1), direct the chief of police to deal with the complaint as the Independent Police Review Director specifies. 2009, c. 30, s. 54.

Complaints about municipal chief, municipal deputy chief

(8) A complaint about the conduct of a municipal chief of police or a municipal deputy chief of police shall be referred by the Independent Police Review Director to the board and dealt with under section 69. 2007, c. 5, s. 10.

Complaints about Commissioner, deputy Commissioner

(9) A complaint about the conduct of the Commissioner or a deputy Commissioner shall be referred by the Independent Police Review Director to the Solicitor General and dealt with under section 70. 2007, c. 5, s. 10.

Cost of complaints process

(10) If the Independent Police Review Director refers a complaint under clause (5) (b) to a chief of police of a police force other than the police force to which the complaint relates, the police force to which the complaint relates shall pay the costs of the investigation incurred by the police force to which the matter is referred. 2007, c. 5, s. 10.

Notice, conduct complaint

62. (1) If a complaint about the conduct of a police officer is referred under clause 61 (5) (a) to the chief of police of the police force to which the complaint relates, the chief of police shall, on receipt of the complaint, promptly give notice of the substance of the complaint to the police officer who is the subject of the complaint unless,

(a) in the chief of police's opinion, to do so might prejudice an investigation into the matter; or

(b) the Independent Police Review Director directs the chief of police not to give notice to the police officer. 2007, c. 5, s. 10.

Same

(2) If a complaint about the conduct of a police officer is referred under clause 61 (5) (b) to a chief of police of a police force other than the police force to which the complaint relates, or is retained by the Independent Police Review Director under clause 61 (5) (c), the Independent Police Review Director shall give notice of the substance of the complaint to the chief of police of the police force to which the complaint relates. 2007, c. 5, s. 10.

Same

(3) On receipt of a notice under subsection (2), the chief of police shall promptly give notice of the substance of the complaint to the police officer who is the subject of the complaint unless,

(a) in the chief of police's opinion, to do so might prejudice an investigation into the matter; or

(b) the Independent Police Review Director directs the chief of police not to give notice to the police officer. 2007, c. 5, s. 10.

Same, officer appointed under the Interprovincial Policing Act, 2009

(3.1) If a complaint about the conduct of a police officer is referred under clause 61 (5.1) (a) to a chief of police or retained by the Independent Police Review Director under clause 61 (5.1) (b), the Independent Police Review Director shall promptly give notice of the substance of the complaint to the appointing official or local commander who appointed the police officer under the Interprovincial Policing Act, 2009, or a prescribed appointing official. 2009, c. 30, s. 55 (1).

Same

(3.2) On receipt of a notice under subsection (3.1), the appointing official or local commander shall promptly give notice of the substance of the complaint to the police officer who is the subject of the complaint and his or her extra-provincial commander unless,

(a) in the opinion of the appointing official or local commander, to do so might prejudice an investigation into the matter; or

(b) the Independent Police Review Director directs the appointing official or local commander not to give notice to the police officer or the extra-provincial commander. 2009, c. 30, s. 55 (1).

Same

(4) The Independent Police Review Director may provide the direction described in clause (1) (b), (3) (b) or (3.2) (b) if, in his or her opinion, providing notice of the complaint to the police officer might prejudice an investigation into the matter. 2007, c. 5, s. 10; 2009, c. 30, s. 55 (2).

Same

(5) If a complaint about the conduct of a municipal chief of police or municipal deputy chief of police is referred under subsection 61 (8) to the board, the board shall give notice of the substance of the complaint to the municipal chief of police or municipal deputy chief of police who is the subject of the complaint unless, in the board's opinion, to do so might prejudice an investigation into the matter. 2007, c. 5, s. 10.

Review and Investigation of Complaints

Complaints about municipal force policies

63. (1) The chief of police shall review every complaint that is referred to him or her by the Independent Police Review Director under subsection 61 (2) and shall take any action, or no action, in response to the complaint as he or she considers appropriate. 2007, c. 5, s. 10.

Disposition

(2) The chief of police shall, within 60 days of the referral of the complaint to him or her, notify the complainant in writing of his or her disposition of the complaint, with reasons, and of the complainant's right to request that the board review the complaint if the complainant is not satisfied with the disposition. 2007, c. 5, s. 10.

Extension of time

(3) The chief of police may extend the 60-day period set out in subsection (2) by notifying the complainant in writing of the extension before the expiry of the period being extended. 2007, c. 5, s. 10.

Written report

(4) The chief of police shall, upon his or her disposition of the complaint, submit a written report to the board and to the Independent Police Review Director respecting the disposition, with reasons. 2007, c. 5, s. 10.

Request for review by board

(5) A complainant may, within 30 days after receiving the notice under subsection (2), request that the board review the complaint by serving a written request to that effect on the board. 2007, c. 5, s. 10.

Review by board

(6) Upon receiving a written request for a review of a complaint previously dealt with by the chief of police, the board shall,

(a) advise the chief of police of the request;

(b) subject to subsection (7), review the complaint and take any action, or no action, in response to the complaint, as it considers appropriate; and

(c) notify the complainant, the chief of police and the Independent Police Review Director in writing of its disposition of the complaint, with reasons. 2007, c. 5, s. 10.

Review by committee of board

(7) A board that is composed of more than three members may appoint a committee of not fewer than three members of the board, two of whom constitute a quorum for the purpose of this subsection, to review a complaint and to make recommendations to the board after the review and the board shall consider the recommendations and shall take any action, or no action, in response to the complaint as the board considers appropriate. 2007, c. 5, s. 10.

Public meeting

(8) In conducting a review under this section, the board or the committee of the board may hold a public meeting respecting the complaint. 2007, c. 5, s. 10.

Complaints re local O.P.P. policies

64. (1) The detachment commander shall review every complaint that is referred to him or her by the Independent Police Review Director under subsection 61 (3), and shall take any action, or no action, in response to the complaint as he or she considers appropriate. 2007, c. 5, s. 10.

Disposition

(2) The detachment commander shall, within 60 days of the referral of the complaint to him or her, notify the complainant in writing of his or her disposition of the complaint, with reasons, and of the complainant's right to request that the board review the complaint if the complainant is not satisfied with the disposition. 2007, c. 5, s. 10.

Extension of time

(3) The detachment commander may extend the 60-day period set out in subsection (2) by notifying the complainant in writing of the extension before the expiry of the period being extended. 2007, c. 5, s. 10.

Written report

(4) The detachment commander shall, upon his or her disposition of the complaint, submit a written report to the board and to the Independent Police Review Director respecting the disposition, with reasons. 2007, c. 5, s. 10.

Request for review by board

(5) A complainant may, within 30 days after receiving the notice under subsection (2), request that the board review the complaint by serving a written request to that effect on the board. 2007, c. 5, s. 10.

Review by board

(6) Upon receiving a written request for a review of a complaint previously dealt with by a detachment commander, the board shall,

(a) advise the detachment commander of the request;

(b) subject to subsection (7), review the complaint and take any action, or no action, in response to the complaint, as it considers appropriate; and

(c) notify the complainant, the detachment commander and the Independent Police Review Director in writing of its disposition of the complaint, with reasons. 2007, c. 5, s. 10.

Review by committee of board

(7) A board that is composed of more than three members may appoint a committee of not fewer than three members of the board, two of whom constitute a quorum for the purpose of this subsection, to review a complaint and to make recommendations to the board after the review and the board shall consider the recommendations and shall take any action, or no action, in response to the complaint as the board considers appropriate. 2007, c. 5, s. 10.

Public meeting

(8) In conducting a review under this section, the board or the committee of the board may hold a public meeting into the complaint. 2007, c. 5, s. 10.

Delegation

(9) A detachment commander may delegate any of his or her duties, functions or powers under this section to any police officer who is a member of the detachment. 2007, c. 5, s. 10.

Complaints re provincial O.P.P. policies

65. (1) The Commissioner shall review every complaint that is referred to him or her by the Independent Police Review Director under subsection 61 (4) and shall take any action, or no action, in response to the complaint as he or she considers appropriate. 2007, c. 5, s. 10.

Notice to complainant

(2) The Commissioner shall notify the complainant and the Independent Police Review Director in writing of his or her disposition of the complaint, with reasons. 2007, c. 5, s. 10.

Complaints about police officer's conduct

66. (1) The chief of police shall cause every complaint referred to him or her by the Independent Police Review Director under clause 61 (5) (a) to be investigated and the investigation to be reported on in a written report. 2007, c. 5, s. 10.

Unsubstantiated complaint

(2) If at the conclusion of the investigation and on review of the written report submitted to him or her the chief of police is of the opinion that the complaint is unsubstantiated, the chief of police shall take no action in response to the complaint and shall notify the complainant, the police officer who is the subject of the complaint and the Independent Police Review Director, in writing, together with a copy of the written report, of the decision and of the complainant's right under subsection 71 (1) to ask the Independent Police Review Director to review the decision within 30 days of receiving the notice. 2007, c. 5, s. 10.

Hearing to be held

(3) Subject to subsection (4), if at the conclusion of the investigation and on review of the written report submitted to him or her the chief of police believes on reasonable grounds that the police officer's conduct constitutes misconduct as defined in section 80 or unsatisfactory work performance, he or she shall hold a hearing into the matter. 2007, c. 5, s. 10.

Informal resolution

(4) If at the conclusion of the investigation and on review of the written report submitted to him or her the chief of police is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the chief of police may resolve the matter

informally without holding a hearing, if the police officer and the complainant consent to the proposed resolution. 2007, c. 5, s. 10.

Notice

(5) Before resolving the matter informally, the chief of police shall notify the complainant and the police officer, in writing, of his or her opinion that there was misconduct or unsatisfactory work performance that was not of a serious nature, and that the complainant may, under subsection 71 (1), ask the Independent Police Review Director to review this decision within 30 days of receiving such notification. 2007, c. 5, s. 10.

No informal resolution until after Independent Police Review Director's review

- (6) The chief of police shall take no action to resolve the matter informally until,
- (a) the 30-day period in which the complainant may ask for a review has expired, without a review being requested; or
 - (b) if the complainant asked for a review within the 30-day period, the Independent Police Review Director has completed its review and then, only if the Independent Police Review Director's decision is such that there may be an informal resolution of the complaint. 2007, c. 5, s. 10.

Same

(7) Despite subsection (6), if the complainant notifies the chief of police in writing that he or she will not ask the Independent Police Review Director to conduct a review, the chief of police shall attempt to resolve the matter informally promptly after receiving such notification from the complainant. 2007, c. 5, s. 10.

Consent of police officer or complainant

(8) A police officer or a complainant who consents to a proposed resolution under subsection (4) may revoke the consent by notifying the chief of police in writing of the revocation no later than 12 business days after the day on which the consent is given. 2007, c. 5, s. 10.

Notice

(9) If a police officer and a complainant consent to the informal resolution of a matter and the consent is not revoked by the police officer or the complainant within the period referred to in subsection (8), the chief of police shall give notice of the resolution to the Independent Police Review Director, and shall provide to the Independent Police Review Director any other information respecting the resolution that the Independent Police Review Director may require. 2007, c. 5, s. 10.

Disposition without a hearing

(10) If consent to the informal resolution of a matter is not given or is revoked under subsection (8), the following rules apply:

1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.

2. Subject to paragraph 3, the chief of police may impose on the police officer a penalty described in clause 85 (1) (d), (e) or (f) or any combination thereof and may take any other action described in subsection 85 (7) and may cause an entry concerning the matter, the penalty imposed or action taken and the police officer's reply to be made in his or her employment record.

3. If the police officer refuses to accept the penalty imposed or action taken, the chief of police shall not impose a penalty or take any other action or cause any entry to be made in the police officer's employment record, but shall hold a hearing under subsection (3). 2007, c. 5, s. 10.

Notice

(11) The chief of police shall give notice to the Independent Police Review Director of any penalty imposed or action taken under paragraph 2 of subsection (10). 2007, c. 5, s. 10.

Employment record expunged

(12) An entry made in the police officer's employment record under paragraph 2 of subsection (10) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this Part. 2007, c. 5, s. 10.

Agreement

(13) Nothing in this section affects agreements between boards and police officers or associations that permit penalties or actions other than those permitted by this section, if the police officer in question consents, without a hearing under subsection (3). 2007, c. 5, s. 10.

Complaints about police officer's conduct, investigation by other police force

67. (1) The chief of police shall cause every complaint referred to him or her by the Independent Police Review Director under clause 61 (5) (b) to be investigated and the investigation to be reported on in a written report. 2007, c. 5, s. 10.

Same

(2) The chief of police shall submit the written report to the chief of police of the police force to which the complaint relates, who shall deal with the written report as if it had been submitted to him or her under section 66. 2007, c. 5, s. 10.

Complaints about police officer's conduct, Independent Police Review Director investigation

68. (1) The Independent Police Review Director shall cause every complaint retained by him or her under clause 61 (5) (c) to be investigated and the investigation to be reported on in a written report. 2007, c. 5, s. 10.

Unsubstantiated complaint

(2) If at the conclusion of the investigation the Independent Police Review Director is of the opinion that the complaint is unsubstantiated, he or she shall report that opinion in writing to the chief of police of the police force to which the complaint relates and the chief of police shall take no action in

response to the complaint and shall notify the complainant and the police officer who is the subject of the complaint in writing of the decision, together with a copy of the written report. 2007, c. 5, s. 10.

Matter referred to chief of police

(3) If at the conclusion of the investigation the Independent Police Review Director believes on reasonable grounds that the conduct of the police officer who is the subject of the complaint constitutes misconduct as defined in section 80 or unsatisfactory work performance, he or she shall refer the matter, together with the written report, to the chief of police of the police force to which the complaint relates. 2007, c. 5, s. 10.

Same

(4) If the Independent Police Review Director is of the opinion that the conduct of the police officer constitutes misconduct or unsatisfactory work performance that is not of a serious nature, he or she, in referring the matter to the chief of police under subsection (3), shall so indicate. 2007, c. 5, s. 10.

Chief of police to hold hearing

(5) Subject to subsection (6), the chief of police shall hold a hearing into a matter referred to him or her under subsection (3) by the Independent Police Review Director. 2007, c. 5, s. 10.

Informal resolution

(6) If on the review of the written report the chief of police is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the chief of police may resolve the matter informally without holding a hearing if the police officer and the complainant consent to the proposed resolution. 2007, c. 5, s. 10.

Same

(7) Subsections 66 (8), (9), (10), (11), (12) and (13) apply, with necessary modifications, in relation to an informal resolution under subsection (6). 2007, c. 5, s. 10.

Complaints about conduct of officer appointed under Interprovincial Policing Act, 2009, investigation by police force

68.1 (1) The chief of police shall cause every complaint referred to him or her by the Independent Police Review Director under clause 61 (5.1) (a) to be investigated and the investigation to be reported on in a written report. 2009, c. 30, s. 56.

Same

(2) The chief of police shall submit the written report to the Independent Police Review Director who shall deal with the written report as if it had been prepared by him or her under section 68.2. The chief of police may also forward to the Independent Police Review Director any other information related to the complaint, as he or she considers appropriate or as the Independent Police Review Director may request. 2009, c. 30, s. 56.

Complaints about conduct of officer appointed under Interprovincial Policing Act, 2009, Independent Police Review Director investigation

68.2 (1) The Independent Police Review Director shall cause every complaint retained by him or her under clause 61 (5.1) (b) to be investigated and the investigation to be reported on in a written report. 2009, c. 30, s. 56.

Unsubstantiated complaint

(2) If at the conclusion of the investigation the Independent Police Review Director is of the opinion that the complaint is unsubstantiated, he or she shall report that opinion in writing to the complainant and the appointing official or local commander who appointed the police officer under the Interprovincial Policing Act, 2009, or a prescribed appointing official, together with a copy of the written report, and the appointing official or local commander shall in turn give the same notification to the police officer who is the subject of the complaint and his or her extra-provincial commander. 2009, c. 30, s. 56.

Matter referred to extra-provincial complaints body

(3) If at the conclusion of the investigation the Independent Police Review Director believes on reasonable grounds that the conduct of the police officer who is the subject of the complaint constitutes misconduct as defined in section 80, he or she shall refer the matter, together with a copy of the written report, to the person or body that is responsible for complaints made against the police officer in the province or territory where he or she was employed as a police officer at the time of his or her appointment under the Interprovincial Policing Act, 2009 and shall notify the complainant and the appointing official or local commander who appointed the police officer under the Interprovincial Policing Act, 2009, or a prescribed appointing official, that the matter has been so referred, together with a copy of the written report. The Independent Police Review Director may also forward to the person or body that is responsible for complaints against the police officer any other information related to the complaint, as he or she considers appropriate. 2009, c. 30, s. 56.

Same

(4) On receipt of the notice under subsection (3), the appointing official or local commander shall in turn notify the police officer who is the subject of the complaint and his or her extra-provincial commander that the matter has been referred, together with the written report. 2009, c. 30, s. 56.

Same

(5) If the Independent Police Review Director is of the opinion that the conduct of the police officer constitutes misconduct that is not of a serious nature, he or she shall forward that opinion in referring the matter to the person or body in the other province or territory under subsection (3). 2009, c. 30, s. 56.

Complaints about municipal chief's, municipal deputy chief's conduct

69. (1) The board shall review every complaint referred to it by the Independent Police Review Director under subsection 61 (8). 2007, c. 5, s. 10.

Investigation by Independent Police Review Director

(2) If at the conclusion of the review the board is of the opinion that the conduct of the chief of police or deputy chief of police who is the subject of the complaint may constitute an offence under a law of Canada or of a province or territory, or misconduct as defined in section 80 or unsatisfactory work performance, the board shall ask the Independent Police Review Director to cause the complaint to be investigated and the investigation to be reported on in a written report. 2007, c. 5, s. 10.

Same

(3) The board shall pay the costs of an investigation conducted under subsection (2). 2007, c. 5, s. 10.

Notice, no action taken

(4) If at the conclusion of the review the board is of the opinion that the conduct of the chief of police or deputy chief of police who is the subject of the complaint is not of a type described in subsection (2), the board shall take no action in response to the complaint and shall notify the complainant, the chief of police or deputy chief of police and the Independent Police Review Director in writing of the decision, with reasons. 2007, c. 5, s. 10.

Unsubstantiated complaint

(5) If at the conclusion of the investigation of a complaint under subsection (2) the Independent Police Review Director is of the opinion that the complaint is unsubstantiated, he or she shall report that opinion in writing to the board and the board shall take no action in response to the complaint and shall notify the complainant and the chief of police or deputy chief of police who is the subject of the complaint in writing of the decision, together with a copy of the written report. 2007, c. 5, s. 10.

Matter referred to board

(6) If at the conclusion of the investigation the Independent Police Review Director believes on reasonable grounds that the conduct of the chief of police or deputy chief of police constitutes misconduct or unsatisfactory work performance, he or she shall refer the matter, together with the written report, to the board. 2007, c. 5, s. 10.

Same

(7) If the Independent Police Review Director is of the opinion that the conduct of the chief of police or deputy chief of police constitutes misconduct or unsatisfactory work performance that is not of a serious nature, he or she, in referring the matter to the board under subsection (6), shall so indicate. 2007, c. 5, s. 10.

Board or Commission to hold hearing

(8) Subject to subsection (9), the board shall hold a hearing into a matter referred to it under subsection (6) or may refer the matter to the Commission to hold the hearing. 2007, c. 5, s. 10.

Informal resolution

(9) If on a review of the written report the board is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the board may resolve the matter informally without holding a hearing if the chief of police or deputy chief of police and the complainant consent to the proposed resolution. 2007, c. 5, s. 10.

Consent of chief, deputy chief or complainant

(10) A chief of police or deputy chief of police or a complainant who consents to a proposed resolution under subsection (9) may revoke the consent by notifying the board in writing of the revocation no later than 12 business days after the day on which the consent is given. 2007, c. 5, s. 10.

Notice

(11) If a chief of police or deputy chief of police and a complainant consent to the informal resolution of a matter and the consent is not revoked by the chief of police, deputy chief of police or complainant within the period referred to in subsection (10), the board shall give notice of the resolution to the Independent Police Review Director, and shall provide to the Independent Police Review Director any other information respecting the resolution that the Independent Police Review Director may require. 2007, c. 5, s. 10.

Disposition without a hearing

(12) If consent to the informal resolution of a matter is not given or is revoked under subsection (10), the following rules apply:

1. The board shall provide the chief of police or deputy chief of police with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.
2. Subject to paragraph 3, the board may impose on the chief of police or deputy chief of police a penalty described in clause 85 (2) (d), (e) or (f) or any combination thereof and may take any other action described in subsection 85 (7) and may cause an entry concerning the matter, the penalty imposed or action taken and the chief of police's or deputy chief of police's reply to be made in his or her employment record.
3. If the chief of police or deputy chief of police refuses to accept the penalty imposed or action taken, the board shall not impose a penalty or take any other action or cause any entry to be made in the employment record, but shall hold a hearing, or refer the matter to the Commission to hold a hearing, under subsection (8). 2007, c. 5, s. 10.

Notice

(13) The board shall give notice to the Independent Police Review Director of any penalty imposed or action taken under paragraph 2 of subsection (12). 2007, c. 5, s. 10.

Employment record expunged

(14) An entry made in the chief of police's or deputy chief of police's employment record under paragraph 2 of subsection (12) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this Part. 2007, c. 5, s. 10.

Agreement

(15) Nothing in this section affects agreements between boards and chiefs of police or deputy chiefs of police that permit penalties or actions other than those permitted by this section, if the chief of police or deputy chief of police in question consents, without a hearing under subsection (8). 2007, c. 5, s. 10.

Complaints about Commissioner's, deputy Commissioner's conduct

70. The Solicitor General shall deal with all complaints referred to him or her by the Independent Police Review Director under subsection 61 (9) as he or she sees fit and there is no appeal from a decision or action taken by the Solicitor General under this section. 2007, c. 5, s. 10.

Request for review by Independent Police Review Director

71. (1) If a complainant has been notified under subsection 66 (2) that his or her complaint is unsubstantiated or under subsection 66 (5) that the conduct he or she complained of has been determined to be not of a serious nature, the complainant may, within 30 days of such notification, ask the Independent Police Review Director to review the decision. 2007, c. 5, s. 10.

Review by Independent Police Review Director

(2) Upon receiving a request to review under subsection (1), the Independent Police Review Director shall review the decision, taking into account any material provided by the complainant or the chief of police, and shall endeavour to complete its review within 30 days of receiving the request, but the Independent Police Review Director shall not hold a hearing into the matter. 2007, c. 5, s. 10.

Powers of Independent Police Review Director on review

(3) Upon completion of the review of a decision, the Independent Police Review Director may,

(a) confirm the decision;

(b) direct the chief of police to deal with the complaint as the Independent Police Review Director specifies;

(c) assign the investigation of the complaint or the conduct of a hearing in respect of the complaint to a police force other than the police force to which the complaint relates;

(d) take over the investigation of the complaint; or

(e) take or require to be taken any other action with respect to the complaint that the Independent Police Review Director considers necessary in the circumstances. 2007, c. 5, s. 10.

Costs

(4) If the Independent Police Review Director assigns the investigation of a complaint or the conduct of a hearing in respect of a complaint to a police force under clause (3) (c), the police force to which the complaint relates shall pay the costs of the investigation or hearing incurred by the police force to which the matter is assigned. 2007, c. 5, s. 10.

Notice

(5) The Independent Police Review Director shall notify the complainant, the chief of police and the police officer who is the subject of the complaint of its decision and the action taken by him or her under subsection (3). 2007, c. 5, s. 10.

Public complaints may be directed

72. (1) The Independent Police Review Director may, with respect to a complaint made by a member of the public under this Part about the conduct of a police officer other than a chief of police or deputy chief of police, at any time after the complaint is referred to a chief of police under clause 61 (5) (a) or (b) and before a hearing under subsection 66 (3) or 68 (5) in respect of the complaint is commenced,

(a) direct the chief of police to deal with the complaint as the Independent Police Review Director specifies;

(b) assign the investigation of the complaint or the conduct of a hearing in respect of the complaint to the chief of police of a police force other than the police force to which the complaint relates;

(c) take over the investigation of the complaint; or

(d) take or require to be taken by the chief of police any other action with respect to the complaint that the Independent Police Review Director considers necessary in the circumstances. 2007, c. 5, s. 10.

Same

(2) The powers of the Independent Police Review Director described under subsection (1) are in addition to any other powers of the Independent Police Review Director under this Act, including but not limited to those set out in subsection 61 (7). 2007, c. 5, s. 10.

Same

(3) The Independent Police Review Director may, with respect to a complaint made by a member of the public under this Part about the conduct of a chief of police or deputy chief of police, at any time after the complaint is referred to a board under subsection 61 (8) and before a hearing under subsection 69 (8) in respect of the complaint is commenced,

(a) direct the board to deal with the complaint as he or she specifies;

(b) assign the conduct of a hearing in respect of a complaint to the Commission; or

(c) take or require to be taken by the board any other action with respect to the complaint that he or she considers necessary in the circumstances. 2007, c. 5, s. 10.

Costs

(4) If the Independent Police Review Director assigns the investigation of a complaint or the conduct of a hearing in respect of a complaint to a police force under clause (1) (b), the police force to which the complaint relates shall pay the costs of the investigation or hearing incurred by the police force to which the matter is assigned. 2007, c. 5, s. 10.

Duty if directed by Independent Police Review Director

73. (1) If the Independent Police Review Director directs under subsection 61 (7) or clause 71 (3) (b), 72 (1) (a) or (3) (a) that a complaint is to be dealt with as specified, the chief of police or board, as the case may be, shall promptly so deal with the complaint. 2007, c. 5, s. 10.

Same

(2) If the Independent Police Review Director requires under clause 71 (3) (e), 72 (1) (d) or (3) (c) that a chief of police or board take an action with respect to a complaint, the chief of police or board, as the case may be, shall promptly cause such action to be taken. 2007, c. 5, s. 10.

Withdrawal of Public Complaints

Withdrawing a public complaint

74. (1) A complainant who has made a complaint under subsection 58 (1) may withdraw his or her complaint on notice to the Independent Police Review Director, unless a hearing in respect of the complaint has commenced. 2007, c. 5, s. 10.

Notice

(2) If a complaint is withdrawn under subsection (1), the Independent Police Review Director shall promptly give notice of the fact of the withdrawal to,

(a) the chief of police of the police force to which the complaint relates, in the case of a complaint about a policy of or service provided by the police force, or about the conduct of a police officer other than a chief of police or deputy chief of police;

(b) the board, in the case of a complaint about the conduct of a municipal chief of police or municipal deputy chief of police; or

(c) the Solicitor General, in the case of a complaint about the conduct of the Commissioner or a deputy Commissioner. 2007, c. 5, s. 10.

Same

(3) Subject to subsections (4), (5) and (6), if a chief of police or board is notified under subsection (2) of the withdrawal of a complaint about the conduct of a police officer, the chief of police or board, as the case may be, shall, within 30 days after receiving the notice of withdrawal from the

Independent Police Review Director, notify the police officer who is the subject of the complaint of the fact. 2007, c. 5, s. 10.

Complaint may be continued

(4) The chief of police or board may continue to deal with a complaint after the complaint is withdrawn under subsection (1) if the chief of police or board, as the case may be, determines within 30 days of receiving the notice of withdrawal that it is appropriate to do so. 2007, c. 5, s. 10.

Same

(5) In the case of a complaint about the conduct of a police officer, a complaint continued under subsection (4) shall be dealt with as if it had been made by the chief of police under subsection 76 (1) or by the board under subsection 77 (1), as the case may be. 2007, c. 5, s. 10.

Notice

(6) If the chief of police or board continues to deal with a complaint about the conduct of a police officer after it is withdrawn, the chief of police or board, as the case may be, shall, within 30 days after receiving the notice of withdrawal, notify the police officer who is the subject of the complaint of the withdrawal and the continuance of the complaint unless, in the chief of police's or board's opinion, to do so might prejudice an investigation into the matter. 2007, c. 5, s. 10.

Withdrawal during hearing

75. (1) Despite subsection 74 (1), a complainant may withdraw his or her complaint after a hearing in respect of the complaint has commenced, if the following persons consent to the withdrawal:

1. The Independent Police Review Director.
2. The chief of police, in the case of a complaint about the conduct of a police officer other than a chief of police or deputy chief of police.
3. The board, in the case of a complaint about the conduct of a municipal chief of police or municipal deputy chief of police. 2007, c. 5, s. 10.

Same

(2) Subsections 74 (2) to (6) do not apply to a complaint withdrawn in accordance with subsection (1). 2007, c. 5, s. 10.

Internal Complaints

Complaints by chief

76. (1) A chief of police may make a complaint under this section about the conduct of a police officer employed by his or her police force, other than the deputy chief of police, and shall cause the complaint to be investigated and the investigation to be reported on in a written report. 2007, c. 5, s. 10; 2009, c. 30, s. 57.

Same

(2) A chief of police who makes a complaint under subsection (1) is not a complainant for the purposes of this Part. 2007, c. 5, s. 10.

Notice

(3) Upon making a complaint about the conduct of a police officer, the chief of police shall promptly give notice of the substance of the complaint to the police officer unless, in the chief of police's opinion, to do so might prejudice an investigation into the matter. 2007, c. 5, s. 10.

Investigation assigned to another police force

(4) A municipal chief of police may, with the approval of the board and on written notice to the Commission, ask the chief of police of another police force to cause the complaint to be investigated and to report, in writing, back to him or her at the expense of the police force to which the complaint relates. 2007, c. 5, s. 10.

Same, re O.P.P. officer

(5) In the case of a complaint about the conduct of a police officer who is a member of the Ontario Provincial Police, the Commissioner may, on written notice to the Commission, ask the chief of police of another police force to cause the complaint to be investigated and to report, in writing, back to him or her at the expense of the Ontario Provincial Police. 2007, c. 5, s. 10.

Same, more than one force involved

(6) If the complaint is about an incident that involved the conduct of two or more police officers who are members of different police forces, the chiefs of police whose police officers are the subjects of the complaint shall agree on which police force, which may be one of the police forces whose police officer is a subject of the complaint or another police force, is to investigate the complaint and report, in writing, back to the other chief or chiefs of police and how the cost of the investigation is to be shared. 2007, c. 5, s. 10.

Same

(7) If the chiefs of police cannot agree under subsection (6), the Commission shall decide how the cost of the investigation is to be shared and,

(a) shall decide which of the chiefs of police whose police officer is a subject of the complaint shall cause the complaint to be investigated and report in writing back to the other chief or chiefs of police; or

(b) shall ask another chief of police to cause the complaint to be investigated and to report back in writing to the chiefs of police. 2007, c. 5, s. 10.

Unsubstantiated complaint

(8) If at the conclusion of the investigation and on review of the written report submitted to him or her the chief of police is of the opinion that the complaint is unsubstantiated, the chief of police shall

take no action in response to the complaint and shall notify the police officer who is the subject of the complaint in writing of the decision, together with a copy of the written report. 2007, c. 5, s. 10.

Hearing to be held

(9) Subject to subsection (10), if at the conclusion of the investigation and on review of the written report submitted to him or her the chief of police believes on reasonable grounds that the police officer's conduct constitutes misconduct as defined in section 80 or unsatisfactory work performance, he or she shall hold a hearing into the matter. 2007, c. 5, s. 10.

Informal resolution

(10) If at the conclusion of the investigation and on review of the written report submitted to him or her the chief of police is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the chief of police may resolve the matter informally without holding a hearing, if the police officer consents to the proposed resolution. 2007, c. 5, s. 10.

Consent of police officer

(11) A police officer who consents to a proposed resolution under subsection (10) may revoke the consent by notifying the chief of police in writing of the revocation no later than 12 business days after the day on which the consent is given. 2007, c. 5, s. 10.

Disposition without a hearing

(12) If an informal resolution of the matter is attempted but not achieved, the following rules apply:

1. The chief of police shall provide the police officer with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.
2. Subject to paragraph 3, the chief of police may impose on the police officer a penalty described in clause 85 (1) (d), (e) or (f) or any combination thereof and may take any other action described in subsection 85 (7) and may cause an entry concerning the matter, the penalty imposed or action taken and the police officer's reply to be made in his or her employment record.
3. If the police officer refuses to accept the penalty imposed or action taken, the chief of police shall not impose a penalty or take any other action or cause any entry to be made in the police officer's employment record, but shall hold a hearing under subsection (9). 2007, c. 5, s. 10.

Employment record expunged

(13) An entry made in the police officer's employment record under paragraph 2 of subsection (12) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this Part. 2007, c. 5, s. 10.

Agreement

(14) Nothing in this section affects agreements between boards and police officers or associations that permit penalties or actions other than those permitted by this section, if the police officer in question consents, without a hearing under subsection (9). 2007, c. 5, s. 10.

Complaints by board

77. (1) A board may make a complaint under this section about the conduct of the municipal chief of police or municipal deputy chief of police and shall review such complaint. 2007, c. 5, s. 10.

Same

(2) A board that makes a complaint under subsection (1) is not a complainant for the purposes of this Part. 2007, c. 5, s. 10.

Notice

(3) Upon making a complaint about the conduct of a chief of police or deputy chief of police, the board shall promptly give notice of the substance of the complaint to the chief of police or deputy chief of police unless, in the board's opinion, to do so might prejudice an investigation into the matter. 2007, c. 5, s. 10.

Investigation assigned to another police force

(4) If at the conclusion of the review the board is of the opinion that the chief of police's or deputy chief of police's conduct may constitute an offence under a law of Canada or of a province or territory, or misconduct as defined in section 80 or unsatisfactory work performance, the board shall ask the Commission to assign the chief of police of another police force to cause the complaint to be investigated promptly and the investigation to be reported on in a written report at the board's expense. 2007, c. 5, s. 10.

Unsubstantiated complaint

(5) If at the conclusion of the investigation conducted by another police force the chief of police of the other police force is of the opinion that the complaint is unsubstantiated, the chief of police shall report that opinion in writing to the board and the board shall take no action in response to the complaint and shall notify the chief of police or deputy chief of police who is the subject of the complaint in writing of the decision, together with a copy of the written report. 2007, c. 5, s. 10.

Matter referred to board

(6) If at the conclusion of the investigation conducted by another police force the chief of police of the other police force believes on reasonable grounds that the conduct of the chief of police or deputy chief of police under investigation constitutes misconduct or unsatisfactory work performance, he or she shall refer the matter, together with the written report, to the board. 2007, c. 5, s. 10.

Board or Commission to hold hearing

(7) Subject to subsection (8), the board shall hold a hearing into a matter referred to it under subsection (6) or may refer the matter to the Commission to hold the hearing. 2007, c. 5, s. 10.

Informal resolution

(8) If on a review of the written report the board is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the board may resolve the matter informally without holding a hearing if the chief of police or deputy chief of police consents to the proposed resolution. 2007, c. 5, s. 10.

Disposition without a hearing

(9) If an informal resolution of the matter is attempted but not achieved, the following rules apply:

1. The board shall provide the chief of police or deputy chief of police with reasonable information concerning the matter and shall give him or her an opportunity to reply, orally or in writing.

2. Subject to paragraph 3, the board may impose on the chief of police or deputy chief of police a penalty described in clause 85 (2) (d), (e) or (f) or any combination thereof and may take any other action described in subsection 85 (7) and may cause an entry concerning the matter, the penalty imposed or action taken and the chief of police's or deputy chief of police's reply to be made in his or her employment record.

3. If the chief of police or deputy chief of police refuses to accept the penalty imposed or action taken, the board shall not impose a penalty or take any other action or cause any entry to be made in the employment record, but shall hold a hearing, or refer the matter to the Commission to hold a hearing, under subsection (7). 2007, c. 5, s. 10.

Employment record expunged

(10) An entry made in the chief of police's or deputy chief of police's employment record under paragraph 2 of subsection (9) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record under this Part. 2007, c. 5, s. 10.

Agreement

(11) Nothing in this section affects agreements between boards and chiefs of police or deputy chiefs of police that permit penalties or actions other than those permitted by this section, if the chief of police or deputy chief of police in question consents, without a hearing under subsection (7). 2007, c. 5, s. 10.

Internal complaints may be directed

78. (1) The Commission may, in respect of a complaint made by a chief of police under section 76 or by a board under section 77, at any stage in the complaints process direct the chief of police or board, as the case may be, to deal with the complaint as it specifies or assign the review or investigation of the complaint or the conduct of a hearing in respect of the complaint to a police force other than the police force to which the complaint relates. 2007, c. 5, s. 10.

Duty

(2) If the Commission directs that a complaint is to be dealt with as specified, the chief of police or board, as the case may be, shall promptly so deal with the complaint. 2007, c. 5, s. 10.

Costs

(3) If the Commission assigns the review or investigation of a complaint or the conduct of a hearing in respect of a complaint to a police force, the police force to which the complaint relates shall pay the costs of the review, investigation or hearing incurred by the police force to which the matter is assigned. 2007, c. 5, s. 10.

Offences

Offences re complaints

79. (1) No person shall harass, coerce or intimidate, or attempt to harass, coerce or intimidate, any other person in relation to a complaint that is made under this Part. 2007, c. 5, s. 10.

Same

(2) No person shall intentionally hinder or obstruct or attempt to hinder or obstruct the Independent Police Review Director or an investigator appointed by the Independent Police Review Director in the performance of his or her duties under this Act, or furnish him or her with false information. 2007, c. 5, s. 10.

Penalty

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 2007, c. 5, s. 10.

Consent of Attorney General required

(4) No prosecution shall be instituted under this section without the consent of the Attorney General. 2007, c. 5, s. 10.

Misconduct

Misconduct

80. (1) A police officer is guilty of misconduct if he or she,

(a) commits an offence described in a prescribed code of conduct;

(b) contravenes section 46 (political activity);

(c) engages in an activity that contravenes subsection 49 (1) (secondary activities) without the permission of his or her chief of police or, in the case of a municipal chief of police, without the permission of the board, being aware that the activity may contravene that subsection;

- (d) contravenes subsection 55 (5) (resignation during emergency);
- (e) commits an offence described in subsection 79 (1) or (2) (offences, complaints);
- (f) contravenes section 81 (inducing misconduct, withholding services);
- (g) contravenes section 117 (trade union membership);
- (h) deals with personal property, other than money or a firearm, in a manner that is not consistent with section 132;
- (i) deals with money in a manner that is not consistent with section 133;
- (j) deals with a firearm in a manner that is not consistent with section 134;
- (k) contravenes a regulation made under paragraph 15 (equipment), 16 (use of force), 17 (standards of dress, police uniforms), 20 (police pursuits) or 21 (records) of subsection 135 (1). 2007, c. 5, s. 10.

Off-duty conduct

(2) A police officer shall not be found guilty of misconduct under subsection (1) if there is no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force. 2007, c. 5, s. 10.

Inducing misconduct and withholding services

Inducing misconduct

81. (1) No person shall,

- (a) induce or attempt to induce a member of a police force to withhold his or her services; or
- (b) induce or attempt to induce a police officer to commit misconduct. 2007, c. 5, s. 10.

Withholding services

(2) No member of a police force shall withhold his or her services. 2007, c. 5, s. 10.

Offence

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 2007, c. 5, s. 10.

Consent of Solicitor General

(4) No prosecution shall be instituted under this section without the consent of the Solicitor General. 2007, c. 5, s. 10.

Hearings

Prosecutor at hearing

82. (1) The chief of police shall designate to be the prosecutor at a hearing held under subsection 66 (3), 68 (5) or 76 (9),

(a) a police officer from any police force of a rank equal to or higher than that of the police officer who is the subject of the hearing; or

(b) a person authorized under the Law Society Act to be a prosecutor at the hearing. 2007, c. 5, ss. 10, 13 (4).

Same

(2) A police officer from another police force may be the prosecutor at the hearing only with the approval of his or her chief of police. 2007, c. 5, s. 10.

Same

(3) The board or Commission shall designate to be the prosecutor at a hearing held under subsection 69 (8) or 77 (7), as the case may be, a person authorized under the Law Society Act to be a prosecutor at the hearing, and the board shall pay the prosecutor's remuneration regardless of whether the prosecutor is designated by the board or by the Commission. 2007, c. 5, s. 13 (5).

Hearings, procedure

83. (1) A hearing held under subsection 66 (3), 68 (5), 69 (8), 76 (9) or 77 (7) shall be conducted in accordance with the Statutory Powers Procedure Act. 2007, c. 5, s. 10.

Application of this section

(2) Subsections (3), (4), (5), (6), (11), (12), (13), (14), (15) and (16) apply to any hearing held under this Part. 2007, c. 5, s. 10.

Parties

(3) The parties to the hearing are the prosecutor, the police officer who is the subject of the hearing and, if the complaint was made by a member of the public, the complainant. 2007, c. 5, s. 10.

Notice and right to representation

(4) The parties to the hearing shall be given reasonable notice of the hearing, and each party may be represented by a person authorized under the Law Society Act to represent the party. 2007, c. 5, s. 13 (6).

Examination of evidence

(5) Before the hearing, the police officer and the complainant, if any, shall each be given an opportunity to examine any physical or documentary evidence that will be produced or any report whose contents will be given in evidence. 2007, c. 5, s. 10.

Police officer not required to give evidence

(6) The police officer who is the subject of the hearing shall not be required to give evidence at the hearing. 2007, c. 5, s. 10.

Non-compellability

(7) No person shall be required to testify in a civil proceeding with regard to information obtained in the course of his or her duties under this Part, except at a hearing held under this Part. 2007, c. 5, s. 10.

Inadmissibility of documents

(8) No document prepared as the result of a complaint made under this Part is admissible in a civil proceeding, except at a hearing held under this Part. 2007, c. 5, s. 10.

Inadmissibility of statements

(9) No statement made during an attempt at informal resolution of a complaint under this Part is admissible in a civil proceeding, including a proceeding under subsection 66 (10), 69 (12), 76 (12) or 77 (9), or a hearing under this Part, except with the consent of the person who made the statement. 2007, c. 5, s. 10.

Recording of evidence

(10) The oral evidence given at the hearing shall be recorded and copies of transcripts shall be provided on the same terms as in the Superior Court of Justice. 2007, c. 5, s. 10.

Release of exhibits

(11) Within a reasonable time after the matter has been finally determined, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them. 2007, c. 5, s. 10.

No communication without notice

(12) Subject to subsection (13), the person conducting the hearing shall not communicate directly or indirectly in relation to the subject matter of the hearing with any person, unless the parties receive notice and have an opportunity to participate. 2007, c. 5, ss. 10, 13 (7).

Exception

(13) The person conducting the hearing may seek legal advice from an advisor independent of the parties, and in that case the nature of the advice shall be communicated to them so that they may make submissions as to the law. 2007, c. 5, s. 10.

If Crown Attorney consulted

(14) If a Crown Attorney has been consulted, the person conducting the hearing may proceed to deal with the part of the complaint that, in his or her opinion, constitutes misconduct as defined in section 80 or unsatisfactory work performance, unless the Crown Attorney directs otherwise. 2007, c. 5, s. 10.

Hearing to continue

(15) If the police officer who is the subject of the hearing is charged with an offence under a law of Canada or of a province or territory in connection with the conduct that was the subject of the complaint, the hearing shall continue unless the Crown Attorney advises the chief of police or board, as the case may be, that it should be stayed until the conclusion of the proceedings dealing with the offence. 2007, c. 5, s. 10.

Photography at hearing

(16) Subsections 136 (1), (2) and (3) of the Courts of Justice Act (photography at court hearing) apply with necessary modifications to the hearing and a person who contravenes subsection 136 (1), (2) or (3) of the Courts of Justice Act, as it is made to apply by this subsection, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 2007, c. 5, s. 10.

Six-month limitation period, exception

(17) If six months have elapsed since the day described in subsection (18), no notice of hearing shall be served unless the board, in the case of a municipal police officer, or the Commissioner, in the case of a member of the Ontario Provincial Police, is of the opinion that it was reasonable, under the circumstances, to delay serving the notice of hearing. 2007, c. 5, s. 10.

Same

(18) The day referred to in subsection (17) is,

(a) in the case of a hearing in respect of a complaint made under this Part by a member of the public about the conduct of a police officer other than a chief of police or deputy chief of police,

(i) the day on which the chief of police received the complaint referred to him or her by the Independent Police Review Director under clause 61 (5) (a) or (b), or

(ii) the day on which the complaint was retained by the Independent Police Review Director under clause 61 (5) (c);

(b) in the case of a hearing in respect of a complaint made under this Part by a member of the public about the conduct of a chief of police or deputy chief of police, the day on which the board received the complaint referred to it by the Independent Police Review Director under subsection 61 (8); or

(c) in the case of a hearing in respect of a complaint made under this Part by a chief of police or board, the day on which the facts on which the complaint is based first came to the attention of the chief of police or board, as the case may be. 2007, c. 5, s. 10.

Findings and disposition

84. (1) If at the conclusion of a hearing under subsection 66 (3), 68 (5) or 76 (9) held by the chief of police, misconduct as defined in section 80 or unsatisfactory work performance is proved on clear and convincing evidence, the chief of police shall take any action described in section 85. 2007, c. 5, s. 10.

Same

(2) If at the conclusion of a hearing under subsection 69 (8) or 77 (7) held by the board, misconduct as defined in section 80 or unsatisfactory work performance is proved on clear and convincing evidence, the board shall take any action described in section 85. 2007, c. 5, s. 10.

Same

(3) If at the conclusion of a hearing under subsection 69 (8) or 77 (7) held by the Commission, misconduct as defined in section 80 or unsatisfactory work performance is proved on clear and convincing evidence, the Commission shall, subject to subsection (4), direct the board in writing to take such action described in section 85 as the Commission specifies. 2007, c. 5, s. 10.

Notice needed

(4) The Commission shall not direct the board to impose the penalties of dismissal or demotion unless the notice of hearing or a subsequent notice served on the chief of police or deputy chief of police indicated that they might be imposed if the complaint were proved on clear and convincing evidence. 2007, c. 5, s. 10.

Powers at conclusion of hearing by chief of police, board or Commission

85. (1) Subject to subsection (4), the chief of police may, under subsection 84 (1),

- (a) dismiss the police officer from the police force;
 - (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
 - (c) demote the police officer, specifying the manner and period of the demotion;
 - (d) suspend the police officer without pay for a period not exceeding 30 days or 240 hours, as the case may be;
 - (e) direct that the police officer forfeit not more than three days or 24 hours pay, as the case may be;
 - (f) direct that the police officer forfeit not more than 20 days or 160 hours off, as the case may be; or
 - (g) impose on the police officer any combination of penalties described in clauses (c), (d), (e) and (f).
- 2007, c. 5, s. 10.

Same

(2) Subject to subsection (4), the board may, under subsection 84 (2),

- (a) dismiss the chief of police or deputy chief of police from the police force;
- (b) direct that the chief of police or deputy chief of police be dismissed in seven days unless he or she resigns before that time;
- (c) demote the chief of police or deputy chief of police, specifying the manner and period of the demotion;

(d) suspend the chief of police or deputy chief of police without pay for a period not exceeding 30 days or 240 hours, as the case may be;

(e) direct that the chief of police or deputy chief of police forfeit not more than three days or 24 hours pay, as the case may be;

(f) direct that the chief of police or deputy chief of police forfeit not more than 20 days or 160 hours off, as the case may be;

(g) impose on the chief of police or deputy chief of police any combination of penalties described in clauses (c), (d), (e) and (f). 2007, c. 5, s. 10.

Same

(3) The board shall promptly take any action that the Commission directs it to take under subsection 84 (3). 2007, c. 5, s. 10.

Notice needed

(4) The chief of police or board, as the case may be, shall not impose the penalties of dismissal or demotion under subsection (1) or (2) unless the notice of hearing or a subsequent notice served on the chief of police, deputy chief of police or other police officer indicated that they might be imposed if the complaint were proved on clear and convincing evidence. 2007, c. 5, s. 10.

Calculation of penalties

(5) Penalties imposed under clauses (1) (d), (e) and (f) and (2) (d), (e) and (f) shall be calculated in terms of days if the chief of police, deputy chief of police or other police officer normally works eight hours a day or less and in terms of hours if he or she normally works more than eight hours a day. 2007, c. 5, s. 10.

Same

(6) If a penalty is imposed under clause (1) (e) or (2) (e), the chief of police, deputy chief of police or other police officer, as the case may be, may elect to satisfy the penalty by working without pay or by applying the penalty to his or her vacation or overtime credits or entitlements. 2007, c. 5, s. 10.

Additional powers

(7) In addition to or instead of a penalty described in subsection (1) or (2), the chief of police or board, as the case may be, may under subsection 84 (1) or (2),

(a) reprimand the chief of police, deputy chief of police or other police officer;

(b) direct that the chief of police, deputy chief of police or other police officer undergo specified counselling, treatment or training;

(c) direct that the chief of police, deputy chief of police or other police officer participate in a specified program or activity;

(d) take any combination of actions described in clauses (a), (b) and (c). 2007, c. 5, s. 10.

Notice of decision

(8) The chief of police or board, as the case may be, shall promptly give written notice of any penalty imposed or action taken under subsection (1), (2), (3) or (7), with reasons,

(a) to the chief of police, deputy chief of police or other police officer who is the subject of the complaint;

(b) in the case of a penalty imposed or action taken by a municipal chief of police, to the board; and

(c) in the case of a penalty imposed or action taken in respect of a complaint made by a member of the public, to the complainant. 2007, c. 5, s. 10.

Employment record

(9) The chief of police or board, as the case may be, may cause an entry concerning the matter, the action taken and the reply of the chief of police, deputy chief of police or other police officer against whom the action is taken, to be made in his or her employment record, but no reference to the allegations of the complaint or the hearing shall be made in the employment record, and the matter shall not be taken into account for any purpose relating to his or her employment unless,

(a) misconduct as defined in section 80 or unsatisfactory work performance is proved on clear and convincing evidence; or

(b) the chief of police, deputy chief of police or other police officer resigns before the matter is finally disposed of. 2007, c. 5, s. 10.

Restriction on employment

(10) No person who is dismissed under section 84, or who resigns following a direction under section 84, may be employed as a member of a police force unless five years have passed since the dismissal or resignation. 2007, c. 5, s. 10; 2009, c. 33, Sched. 2, s. 60 (2).

Decisions to be publicly available

86. (1) The chief of police shall ensure that every decision made after a hearing held under subsection 66 (3) or 68 (5) is made available to the public in the manner that he or she considers appropriate in the circumstances, and shall give a copy of every such decision to the Independent Police Review Director. 2007, c. 5, s. 10.

Same

(2) The board shall ensure that every decision made by it after a hearing held under subsection 69 (8) is made available to the public in the manner that it considers appropriate in the circumstances, and shall give a copy of every such decision to the Independent Police Review Director. 2007, c. 5, s. 10.

Same

(3) On receiving a copy of a decision from the chief of police or board, the Independent Police Review Director shall publish the decision by posting it on the Internet. 2007, c. 5, s. 10.

Appeal to Commission

87. (1) A police officer or complainant, if any, may, within 30 days of receiving notice of the decision made after a hearing held under subsection 66 (3), 68 (5) or 76 (9) by the chief of police or under subsection 69 (8) or 77 (7) by the board, appeal the decision to the Commission by serving on the Commission a written notice stating the grounds on which the appeal is based. 2007, c. 5, s. 10.

Commission to hold hearing

(2) The Commission shall hold a hearing upon receiving a notice under subsection (1) from a police officer. 2007, c. 5, s. 10.

Same

(3) The Commission shall hold a hearing upon receiving a notice under subsection (1) from a complainant if the appeal is from the finding that misconduct or unsatisfactory work performance was not proved on clear and convincing evidence. 2007, c. 5, s. 10.

Commission may hold hearing

(4) The Commission may hold a hearing, if it considers it appropriate, upon receiving a notice under subsection (1) from a complainant with respect to an appeal other than an appeal described in subsection (3). 2007, c. 5, s. 10.

Appeal on the record

(5) A hearing held under this section shall be an appeal on the record, but the Commission may receive new or additional evidence as it considers just. 2007, c. 5, s. 10.

Solicitor General may be heard

(6) The Solicitor General is entitled to be heard, by counsel or otherwise, on the argument of the appeal. 2007, c. 5, s. 10.

Independent Police Review Director may be heard

(7) The Independent Police Review Director is entitled to be heard, by counsel or otherwise, on the argument of the appeal of a decision made in respect of a complaint made by a member of the public. 2007, c. 5, s. 10.

Powers of Commission

(8) After holding a hearing on an appeal, the Commission may,

(a) confirm, vary or revoke the decision being appealed;

(b) substitute its own decision for that of the chief of police or the board, as the case may be;

(c) in the case of an appeal from a decision of a chief of police, order a new hearing before the chief of police under subsection 66 (3), 68 (5) or 76 (9), as the case may be; or

(d) in the case of an appeal from a decision of a board, order a new hearing before the board under subsection 69 (8) or 77 (7), as the case may be. 2007, c. 5, s. 10.

Appeal to Divisional Court

88. (1) A party to a hearing held by the Commission under subsection 69 (8) or 77 (7) may appeal the Commission's decision to the Divisional Court within 30 days of receiving notice of the Commission's decision. 2007, c. 5, s. 10.

Grounds for appeal

(2) An appeal may be made on a question that is not a question of fact alone, from a penalty imposed or from any other action taken, or all of them. 2007, c. 5, s. 10.

Solicitor General may be heard

(3) The Solicitor General is entitled to be heard, by counsel or otherwise, on the argument of the appeal. 2007, c. 5, s. 10.

Independent Police Review Director may be heard

(4) The Independent Police Review Director is entitled to be heard, by counsel or otherwise, on the argument of the appeal of a decision made in respect of a complaint made by a member of the public. 2007, c. 5, s. 10.

Suspension

Suspension

89. (1) If a police officer, other than a chief of police or deputy chief of police, is suspected of or charged with an offence under a law of Canada or of a province or territory or is suspected of misconduct as defined in section 80, the chief of police may suspend him or her from duty with pay. 2007, c. 5, s. 10.

Same

(2) If a chief of police or deputy chief of police is suspected of or charged with an offence under a law of Canada or of a province or territory or is suspected of misconduct as defined in section 80, the board may suspend him or her from duty with pay. 2007, c. 5, s. 10.

Revocation and reimposition of suspension

(3) The chief of police or board may revoke the suspension and later reimpose it, repeatedly if necessary, as the chief of police or board, as the case may be, considers appropriate. 2007, c. 5, s. 10.

Duration of suspension

(4) Unless the chief of police or board revokes the suspension, it shall continue until the final disposition of the proceeding in which the chief of police's, deputy chief of police's or other police officer's conduct is at issue. 2007, c. 5, s. 10.

Conditions of suspension

(5) While suspended, the chief of police, deputy chief of police or other police officer shall not exercise any of the powers vested in him or her as a chief of police, deputy chief of police or police officer, or wear or use clothing or equipment that was issued to him or her in that capacity. 2007, c. 5, s. 10.

Suspension without pay

(6) If a chief of police, deputy chief of police or other police officer is convicted of an offence and sentenced to a term of imprisonment, the chief of police or board, as the case may be, may suspend him or her without pay, even if the conviction or sentence is under appeal. 2007, c. 5, s. 10.

Earnings from other employment

(7) If a chief of police, deputy chief of police or other police officer is suspended with pay, the pay for the period of suspension shall be reduced by the amount that he or she earns from other employment during that period. 2007, c. 5, s. 10.

Exception

(8) Subsection (7) does not apply to earnings from other employment that was commenced before the period of suspension. 2007, c. 5, s. 10.

Resignations and Terminations

Resignation of police officer

90. (1) If at any time after a complaint about the conduct of a police officer is made under this Part and before the complaint is finally disposed of the police officer resigns, no further action shall be taken under this Part in respect of the complaint after the date of resignation. 2007, c. 5, s. 10.

Notice

(2) If the complaint referred to in subsection (1) was made under this Part by a member of the public, notice of the resignation shall be given promptly after the resignation to the complainant and the Independent Police Review Director by,

(a) the board of the police force from which the police officer resigned, in the case of the resignation of a municipal chief of police or municipal deputy chief of police; or

(b) the chief of police of the police force from which the police officer resigned, in the case of the resignation of a police officer other than a chief of police or deputy chief of police. 2007, c. 5, s. 10.

Exception

(3) Despite subsection (1), if the police officer who resigned is employed by a police force within five years of the date of resignation, this Part shall apply to the police officer in accordance with the regulations. 2007, c. 5, s. 10.

Deemed employment

(4) In the circumstances described in subsection (3), if the police officer is employed with a police force other than the police force from which he or she resigned, the police officer is deemed, for the purposes of the complaints process under this Part, to be employed with the police force from which he or she resigned, except that an action that shall be taken with respect to the matter by a chief of police under subsection 84 (1) or by a board under subsection 84 (2) or 85 (3) after the complaints process is resumed shall be taken by the chief of police or board, as the case may be, of the police force in which the police officer is employed following the resignation. 2007, c. 5, s. 10.

Exception, officers appointed under the Interprovincial Policing Act, 2009

(5) This section does not apply to a police officer appointed under the Interprovincial Policing Act, 2009. 2009, c. 30, s. 58.

Termination of officers appointed under the Interprovincial Policing Act, 2009

90.1 This Part applies to a police officer appointed under the Interprovincial Policing Act, 2009 even after his or her appointment under that Act is terminated. 2009, c. 30, s. 59.

Performance Audits

Performance audits conducted by boards

91. (1) The Independent Police Review Director may, at any time, require that a board submit to him or her a performance audit, conducted by an independent auditor at the board's expense, of the board's administration of complaints made under this Part by members of the public. 2007, c. 5, s. 10.

Same

(2) The performance audit shall be conducted in accordance with such directions that the Independent Police Review Director may give, if any. 2007, c. 5, s. 10.

Performance audits conducted by Independent Police Review Director

92. The Independent Police Review Director may, from time to time, conduct a performance audit of any aspect of the administration of complaints made under this Part by members of the public, and shall make the results of the audit publicly available. 2007, c. 5, s. 10.

General Matters

Informal complaint resolution

93. (1) If at any time during an investigation under this Part into a complaint about the conduct of a police officer other than a chief of police or deputy chief of police the conduct appears to be obviously conduct that is not of a serious nature, the chief of police of the police force to which the complaint relates may resolve the matter informally, if the police officer and the complainant, if any, consent to the proposed resolution. 2007, c. 5, s. 10.

Same

(2) In the case of a complaint made by a member of the public, the chief of police shall not resolve the matter informally under subsection (1) without the approval of the Independent Police Review Director. 2007, c. 5, s. 10.

Same

(3) If at any time during a review or investigation under this Part into a complaint about the conduct of a municipal chief of police or municipal deputy chief of police the conduct appears to be obviously conduct that is not of a serious nature, the board may resolve the matter informally, if the chief of police or deputy chief of police and the complainant, if any, consent to the proposed resolution. 2007, c. 5, s. 10.

Notice

(4) If a complaint made by a member of the public is informally resolved under subsection (1) or (3), the chief of police or board, as the case may be, shall give notice to the Independent Police Review Director of the resolution, and shall provide to the Independent Police Review Director any other information respecting the resolution of the complaint that he or she may require. 2007, c. 5, s. 10.

Consent of police officer or complainant

(5) A police officer or a complainant who consents to a proposed resolution under subsection (1) may revoke the consent by notifying the chief of police and, in the case of a complaint made by a member of the public, the Independent Police Review Director, in writing of the revocation no later than 12 business days after the day on which the consent is given. 2007, c. 5, s. 10.

Non-application of this Part

(6) No other provisions of this Part apply in respect of an informal resolution under subsection (1) or (3), except subsection 83 (9). 2007, c. 5, s. 10.

Delegation of chief's powers and duties

94. (1) A chief of police may delegate the following powers and duties to a police officer or a former police officer of the rank of inspector or higher, a judge or retired judge, or such other person as may be prescribed:

1. Conducting a hearing under subsection 66 (3), 68 (5) or 76 (9) and taking an action under subsection 84 (1), if that subsection applies.

2. Acting under subsections 66 (4) and (10), subsection 68 (6) or subsections 76 (10) and (12). 2007, c. 5, s. 10.

Same

(2) A person to whom the chief of police may delegate under subsection (1) may only act as a delegate if he or she meets the prescribed qualifications, conditions or requirements, if any. 2007, c. 5, s. 10.

Same

(3) If a chief of police delegates the powers and duties described in paragraph 1 of subsection (1) to a police officer from another police force of the rank of inspector or higher, that police officer may only act as a delegate with the approval of his or her chief of police. 2007, c. 5, s. 10.

Same

(4) A chief of police may delegate his or her powers and duties under this Part, other than the powers and duties described in subsection (1), to any member of any police force. 2007, c. 5, s. 10.

Confidentiality

95. Every person engaged in the administration of this Part shall preserve secrecy with respect to all information obtained in the course of his or her duties under this Part and shall not communicate such information to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations;

(b) to his or her counsel;

(c) as may be required for law enforcement purposes; or

(d) with the consent of the person, if any, to whom the information relates. 2007, c. 5, s. 10.

Notice

96. (1) Where a notice, referral, request or other document is required to be given to or served on a person or body under this Part, it may be given or served personally, by mail, by fax or other electronic transmission, or by some other method that allows proof of receipt. 2007, c. 5, s. 10.

Deemed receipt

(2) A notice, referral, request or other document is deemed to be received by the person or body as follows, unless the person or body establishes that the person or body did not, acting in good faith, through absence, accident, illness or other cause beyond the person's or body's control, receive the notice as deemed:

1. In the case of mail, on the fifth day after the document is mailed.

2. In the case of fax or other electronic transmission, on the day after the document is sent or, if that day is a Saturday or a holiday, on the next day that is not a Saturday or a holiday. 2007, c. 5, s. 10.

Ombudsman Act does not apply

97. The Ombudsman Act does not apply to anything done under this Part. 2007, c. 5, s. 10.

Transition

98. (1) Complaints made under the old Part V shall continue to be dealt with in accordance with the old Part V. 2007, c. 5, s. 10.

Same

(2) If a complaint about a policy of or service provided by a police force or the conduct of a police officer is made on or after the day the old Part V is repealed, but the event to which the complaint relates occurred before the repeal of the old Part V, the complaint shall be dealt with in accordance with the old Part V. 2007, c. 5, s. 10.

Definition

(3) In this section,

“old Part V” means Part V of this Act, as it read immediately before its repeal by section 10 of the Independent Police Review Act, 2007. 2007, c. 5, s. 10.

PART VI (SS. 99-112) REPEALED: 1997, C. 8, S. 35.

PART VII

SPECIAL INVESTIGATIONS

Special investigations unit

113. (1) There shall be a special investigations unit of the Ministry of the Solicitor General. R.S.O. 1990, c. P.15, s. 113 (1).

Composition

(2) The unit shall consist of a director appointed by the Lieutenant Governor in Council on the recommendation of the Solicitor General and investigators appointed under Part III of the Public Service of Ontario Act, 2006. R.S.O. 1990, c. P.15, s. 113 (2); 2006, c. 35, Sched. C, s. 111 (4).

Idem

(3) A person who is a police officer or former police officer shall not be appointed as director, and persons who are police officers shall not be appointed as investigators. R.S.O. 1990, c. P.15, s. 113 (3).

Acting director

(3.1) The director may designate a person, other than a police officer or former police officer, as acting director to exercise the powers and perform the duties of the director if the director is absent or unable to act. 2009, c. 33, Sched. 2, s. 60 (3).

Peace officers

(4) The director, acting director and investigators are peace officers. R.S.O. 1990, c. P.15, s. 113 (4); 2009, c. 33, Sched. 2, s. 60 (4).

Investigations

(5) The director may, on his or her own initiative, and shall, at the request of the Solicitor General or Attorney General, cause investigations to be conducted into the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers. R.S.O. 1990, c. P.15, s. 113 (5).

Restriction

(6) An investigator shall not participate in an investigation that relates to members of a police force of which he or she was a member. R.S.O. 1990, c. P.15, s. 113 (6).

Charges

(7) If there are reasonable grounds to do so in his or her opinion, the director shall cause informations to be laid against police officers in connection with the matters investigated and shall refer them to the Crown Attorney for prosecution. R.S.O. 1990, c. P.15, s. 113 (7).

Report

(8) The director shall report the results of investigations to the Attorney General. R.S.O. 1990, c. P.15, s. 113 (8).

Co-operation of police forces

(9) Members of police forces shall co-operate fully with the members of the unit in the conduct of investigations. R.S.O. 1990, c. P.15, s. 113 (9).

Co-operation of appointing officials

(10) Appointing officials shall co-operate fully with the members of the unit in the conduct of investigations. 2009, c. 30, s. 60.

PART VIII

LABOUR RELATIONS

Definitions, Part VIII

114. In this Part,

“Arbitration Commission” means the Ontario Police Arbitration Commission continued by subsection 131 (1); (“Commission d’arbitrage”)

“senior officer” means a member of a police force who has the rank of inspector or higher or is employed in a supervisory or confidential capacity. (“agent supérieur”) R.S.O. 1990, c. P.15, s. 114.

Exclusions

O.P.P.

115. (1) This Part, except section 117, does not apply to the Ontario Provincial Police. R.S.O. 1990, c. P.15, s. 115 (1).

Chief of police and deputy

(2) The working conditions and remuneration of the chief of police and deputy chief of police of a police force shall be determined under clause 31 (1) (d) (responsibilities of board) and not under this Part. R.S.O. 1990, c. P.15, s. 115 (2).

Officers appointed under the Interprovincial Policing Act, 2009

(3) This Part does not apply to a police officer appointed under the Interprovincial Policing Act, 2009. 2009, c. 30, s. 61.

Hearing re person’s status

116. (1) If there is a dispute as to whether a person is a member of a police force or a senior officer, any affected person may apply to the Commission to hold a hearing and decide the matter.

Decision final

(2) The Commission’s decision is final. R.S.O. 1990, c. P.15, s. 116.

Membership in trade union prohibited, exception

117. A member of a police force shall not become or remain a member of a trade union or of an organization that is affiliated directly or indirectly with a trade union, unless the membership is required for secondary activities that do not contravene section 49 and the chief of police consents. R.S.O. 1990, c. P.15, s. 117.

Separate bargaining, etc., separate categories

118. (1) If a majority of the members of a police force, or an association that is entitled to give notices of desire to bargain, assigns the members of the police force to different categories for the purposes of this Part, bargaining, conciliation and arbitration shall be carried on as if each category were a separate police force.

Senior officers

(2) If at least 50 per cent of the senior officers of a police force belong to an association composed only of senior officers, bargaining, conciliation and arbitration shall be carried on as if the senior officers were a separate police force.

Restriction

(3) Bargaining, conciliation and arbitration may be carried on with more than two categories within a police force (apart from senior officers) only if the Commission has approved the creation of the categories. R.S.O. 1990, c. P.15, s. 118.

Notice of desire to bargain

119. (1) If no agreement exists or at any time after ninety days before an agreement would expire but for subsection 129 (1) or (2), a majority of the members of a police force may give the board notice in writing of their desire to bargain with a view to making an agreement, renewing the existing agreement, with or without modifications, or making a new agreement. R.S.O. 1990, c. P.15, s. 119 (1).

Bargaining

(2) Within fifteen days after the notice of desire to bargain is given or within the longer period that the parties agree upon, the board shall meet with a bargaining committee of the members of the police force. R.S.O. 1990, c. P.15, s. 119 (2).

Idem

(3) The parties shall bargain in good faith and make every reasonable effort to come to an agreement dealing with the remuneration, pensions, sick leave credit gratuities and grievance procedures of the members of the police force and, subject to section 126, their working conditions. R.S.O. 1990, c. P.15, s. 119 (3).

Filing of agreement

(4) The board shall promptly file a copy of any agreement with the Arbitration Commission. R.S.O. 1990, c. P.15, s. 119 (4).

Association

(5) If at least 50 per cent of the members of the police force belong to an association, it shall give the notice of desire to bargain. R.S.O. 1990, c. P.15, s. 119 (5).

Municipal plans, notice to Minister

(6) If the notice of desire to bargain involves pensions under a pension plan established or to be established under the Municipal Act, 2001 or the City of Toronto Act, 2006, as the case may be, it shall also be given to the Minister of Municipal Affairs and Housing, who may determine the maximum pension benefits that may be included in any agreement or award with respect to the pension plan. R.S.O. 1990, c. P.15, s. 119 (6); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 49.

Bargaining committee

120. (1) The members of the bargaining committee shall be members of the police force.

Counsel and advisors

(2) One legal counsel and one other advisor for each of the bargaining committee and the board may participate in the bargaining sessions.

Police organization

(3) If the notice of desire to bargain is given by an association that is affiliated with a police organization, or if at least 50 per cent of the members of the police force belong to a police organization, a member of the organization may attend the parties' bargaining sessions in an advisory capacity.

Chief of police

(4) The chief of police or, if the parties consent, another person designated by the chief of police may also attend the parties' bargaining sessions in an advisory capacity. R.S.O. 1990, c. P.15, s. 120.

Appointment of conciliation officer

121. (1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a notice of desire to bargain has been given.

Duty of conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Extension of time

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended.

Report

(4) When the conciliation officer reports to the Solicitor General that an agreement has been reached or that an agreement cannot be reached, the Solicitor General shall promptly inform the parties of the report. R.S.O. 1990, c. P.15, s. 121 (1-4).

No arbitration until after conciliation

(5) Neither party shall give a notice requiring matters in dispute to be referred to arbitration under section 122 until a conciliation officer has been appointed, endeavoured to effect an agreement and reported to the Solicitor General and the Solicitor General has informed the parties of the conciliation officer's report. 1997, c. 21, Sched. A, s. 5 (1).

Arbitration

122. (1) If matters remain in dispute after bargaining under section 119 and conciliation under section 121, a party may give the chair of the Arbitration Commission and the other party a written notice referring the matters to arbitration. 1997, c. 21, Sched. A, s. 5 (2).

Composition of arbitration board

(2) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.

2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the chair of the Arbitration Commission.

3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the chair of the Arbitration Commission.

4. If the arbitration board consists of one person who was appointed by the chair of the Arbitration Commission or if the arbitration board consists of three persons and the chair was appointed by the chair of the Arbitration Commission, the chair of the Arbitration Commission shall select the method of arbitration and shall advise the arbitration board of the selection. The method selected shall be mediation-arbitration unless the chair of the Arbitration Commission is of the view that another method is more appropriate. The method selected shall not be final offer selection without mediation and it shall not be mediation-final offer selection unless the chair of the Arbitration Commission in his or her sole discretion selects that method because he or she is of the view that it is the most appropriate method having regard to the nature of the dispute. If the method selected is mediation-final offer selection, the chair of the arbitration board shall be the mediator or, if the arbitration board consists of one person, that person shall be the mediator. R.S.O. 1990, c. P.15, s. 122 (2); 1997, c. 21, Sched. A, s. 5 (3).

When hearings commence

(3) The arbitration board shall hold the first hearing within 30 days after the chair is appointed or, if the arbitration board consists of one person, within 30 days after that person is appointed.

Exception

(3.1) If the method of arbitration selected by the chair of the Arbitration Commission is mediation-arbitration or mediation-final offer selection, the time limit set out in subsection (3) does not apply in respect of the first hearing but applies instead, with necessary modifications, in respect of the commencement of mediation.

Time for submission of information

(3.2) If the method of arbitration selected by the chair of the Arbitration Commission is mediation-arbitration or mediation-final offer selection, the chair of the arbitration board or, if the arbitration board consists of one person, that person may, after consulting with the parties, set a date after which a party may not submit information to the board unless,

(a) the information was not available prior to the date;

(b) the chair or, if the arbitration board consists of one person, that person permits the submission of the information; and

(c) the other party is given an opportunity to make submissions concerning the information.

Hearing

(3.3) If the method of arbitration selected by the chair of the Arbitration Commission is conventional arbitration, the arbitration board shall hold a hearing, but the chair of the arbitration board or, if the arbitration board consists of one person, that person may impose limits on the submissions of the parties and the presentation of their cases.

Consolidation of disputes

(3.4) Disputes may be arbitrated together only if all the parties to the disputes agree.

Time for decision

(3.5) The arbitration board shall give a decision within 90 days after the chair is appointed or, if the arbitration board consists of one person, within 90 days after that person is appointed.

Extension

(3.6) The parties may agree to extend the time described in subsection (3.5), either before or after the time has passed.

Remuneration and expenses

(3.7) The remuneration and expenses of the members of an arbitration board shall be paid as follows:

1. A party shall pay the remuneration and expenses of a member appointed by or on behalf of the party.

2. Each party shall pay one-half of the chair's remuneration and expenses or, if the arbitration board consists of one person, one-half of that person's remuneration and expenses. 1997, c. 21, Sched. A, s. 5 (4).

Representations by council

(4) The municipal council may make representations before the arbitration board if it is authorized to do so by a resolution. R.S.O. 1990, c. P.15, s. 122 (4).

Criteria

(5) In making a decision or award, the arbitration board shall take into consideration all factors it considers relevant, including the following criteria:

1. The employer's ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.
3. The economic situation in Ontario and in the municipality.
4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified employees.
6. The interest and welfare of the community served by the police force.
7. Any local factors affecting that community.

Transition

(5.1) Subsection (5) does not apply if, on or before the day the Savings and Restructuring Act, 1996 receives Royal Assent,

- (a) an oral or electronic hearing has begun; or
- (b) the arbitration board has received all the submissions, if no oral or electronic hearing is held.

Restriction

(5.2) Nothing in subsection (5) affects the powers of the arbitration board. 1996, c. 1, Sched. Q, s. 3.

Filing of award

(6) The arbitration board shall promptly file a copy of its decision or award with the Arbitration Commission. R.S.O. 1990, c. P.15, s. 122 (6).

(7) Repealed: 1997, c. 21, Sched. A, s. 5 (5).

Existing proceedings discontinued

122.1 (1) Proceedings before an arbitrator or arbitration board under this Act in which a hearing commenced before the date on which subsection 5 (6) of the Public Sector Dispute Resolution Act, 1997 comes into force are terminated and any decision in such proceedings is void.

Exception, completed proceedings

- (2) This section does not apply with respect to proceedings if,
 - (a) a final decision is issued on or before June 3, 1997; or
 - (b) a final decision is issued after June 3, 1997 and the decision is served before the date on which subsection 5 (6) of the Public Sector Dispute Resolution Act, 1997 comes into force.

Exception, by agreement

(3) This section does not apply if the parties agree in writing after June 3, 1997 to continue the proceedings. 1997, c. 21, Sched. A, s. 5 (6).

Dispute, appointment of conciliation officer

123. (1) The Solicitor General shall appoint a conciliation officer, at a party's request, if a difference arises between the parties concerning an agreement or an arbitrator's decision or award made under this Part, or if it is alleged that an agreement or award has been violated.

Duty of conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to resolve the dispute and shall, within fourteen days after being appointed, make a written report of the results to the Solicitor General.

Extension of time

(3) The fourteen-day period may be extended if the parties agree or if the Solicitor General extends it on the advice of the conciliation officer that the dispute may be resolved within a reasonable time if the period is extended.

Report

(4) When the conciliation officer reports to the Solicitor General that the dispute has been resolved or that it cannot be resolved by conciliation, the Solicitor General shall promptly inform the parties of the report.

No arbitration during conciliation

(5) Neither party shall give a notice referring the dispute to arbitration until the Solicitor General has informed the parties of the conciliation officer's report. R.S.O. 1990, c. P.15, s. 123.

Arbitration after conciliation fails

124. (1) If the conciliation officer reports that the dispute cannot be resolved by conciliation, either party may give the Solicitor General and the other party a written notice referring the dispute to arbitration. R.S.O. 1990, c. P.15, s. 124 (1).

Idem

(2) The procedure provided by subsection (1) is available in addition to any grievance or arbitration procedure provided by the agreement, decision or award. R.S.O. 1990, c. P.15, s. 124 (2).

Composition of arbitration board

(3) The following rules apply to the composition of the arbitration board:

1. The parties shall determine whether it shall consist of one person or of three persons. If they are unable to agree on this matter, or if they agree that the arbitration board shall consist of three

persons but one of the parties then fails to appoint a person in accordance with the agreement, the arbitration board shall consist of one person.

2. If the arbitration board is to consist of one person, the parties shall appoint him or her jointly. If they are unable to agree on a joint appointment, the person shall be appointed by the Solicitor General.

3. If the arbitration board is to consist of three persons, the parties shall each appoint one person and shall jointly appoint a chair. If they are unable to agree on a joint appointment, the chair shall be appointed by the Solicitor General. R.S.O. 1990, c. P.15, s. 124 (3).

Time for arbitration

(4) The arbitration board shall commence the arbitration within thirty days after being appointed, in the case of a one-person board, or within thirty days after the appointment of the chair, in the case of a three-person board, and shall deliver a decision within a reasonable time. R.S.O. 1990, c. P.15, s. 124 (4).

Filing of decision

(5) The arbitration board shall promptly file a copy of its decision with the Arbitration Commission. R.S.O. 1990, c. P.15, s. 124 (5).

Costs and expenses

(6) The following rules apply with respect to the costs and expenses of the arbitration:

1. The Arbitration Commission shall pay the fees of any person the Solicitor General appoints to the arbitration board.

2. Each party shall pay its own costs incurred in the arbitration, including the fees of any person it appoints to the arbitration board.

3. The parties shall share equally the costs and expenses for matters shared in common, including the fees of any person whom they jointly appoint to the arbitration board. R.S.O. 1990, c. P.15, s. 124 (6).

Enforcement

(7) After the day that is thirty days after the delivery of the decision or after the day that the decision provides for compliance, whichever is later, the arbitration board may, of its own motion, and shall, at a party's request, file a copy of the decision, in the prescribed form, with the Superior Court of Justice. R.S.O. 1990, c. P.15, s. 124 (7); 2002, c. 18, Sched. N, s. 71.

Idem

(8) The decision shall be entered in the same way as a judgment of the Superior Court of Justice and may be enforced as such. R.S.O. 1990, c. P.15, s. 124 (8); 2002, c. 18, Sched. N, s. 71.

Extension of time

125. The parties may agree to extend any period of time mentioned in this Part. R.S.O. 1990, c. P.15, s. 125.

Restriction

126. Agreements and awards made under this Part do not affect the working conditions of the members of the police force in so far as those working conditions are determined by sections 42 to 49, subsection 50 (3), Part V (except as provided in subsections 66 (13) and 76 (14)) and Part VII of this Act and by the regulations. 1997, c. 8, s. 36; 2007, c. 5, s. 11.

Non-application of Arbitration Act, 1991

127. The Arbitration Act, 1991 does not apply to arbitrations conducted under this Part. R.S.O. 1990, c. P.15, s. 127; 1997, c. 21, Sched. A, s. 5 (7).

Agreements, decisions and awards binding

128. Agreements, decisions and awards made under this Part bind the board and the members of the police force. R.S.O. 1990, c. P.15, s. 128.

Duration of agreements, decisions and awards

129. (1) Agreements, decisions and awards remain in effect until the end of the year in which they come into effect and thereafter continue in effect until replaced.

Longer duration if parties agree

(2) The parties to an agreement may provide that the agreement and any decisions or awards made with respect to it shall remain in effect until the end of the year following the year in which they come into effect and thereafter shall continue in effect until replaced. R.S.O. 1990, c. P.15, s. 129.

Provision for expenditures

130. (1) If, when the council is adopting its annual estimates, a notice of desire to bargain has been given but there is not yet an agreement, decision or award, the council shall make such provision for the payment of expenditures that will result from the expected agreement, decision or award as it considers adequate.

Coming into effect

(2) An agreement, decision or award comes into effect on the first day of the fiscal period in respect of which the municipal council may make provision for it in its estimates, whether that day is before or after the agreement, decision or award is made.

Exception

(3) A provision of the agreement, decision or award that does not involve municipal expenditures may come into effect earlier than the day referred to in subsection (2). R.S.O. 1990, c. P.15, s. 130.

Composition of Arbitration Commission, etc.

131. (1) The commission known as the Ontario Police Arbitration Commission is continued under the name of Ontario Police Arbitration Commission in English and the name of Commission d'arbitrage de la police de l'Ontario in French. R.S.O. 1990, c. P.15, s. 131 (1).

Membership

(2) The Arbitration Commission shall be composed of the following members, appointed by the Lieutenant Governor in Council:

1. Two representatives of boards, recommended for appointment by the Ontario Association of Police Services Boards.
2. Two representatives of members of associations, recommended for appointment by the Police Association of Ontario.
3. A chair. R.S.O. 1990, c. P.15, s. 131 (2); 1997, c. 8, s. 37.

(3) Repealed: 2006, c. 34, s. 40.

Employees

(4) Such employees as are considered necessary for the proper conduct of the affairs of the Arbitration Commission may be appointed under Part III of the Public Service of Ontario Act, 2006. 2006, c. 35, Sched. C, s. 111 (5).

Responsibilities of Arbitration Commission

(5) The Arbitration Commission has the following responsibilities:

1. Maintaining a register of arbitrators who are available for appointment under section 124.
2. Assisting arbitrators by making administrative arrangements in connection with arbitrations.
3. Fixing the fees of arbitrators appointed by the Solicitor General under section 124.
4. Sponsoring the publication and distribution of information about agreements, arbitrations and awards.
5. Sponsoring research on the subject of agreements, arbitrations and awards.
6. Maintaining a file of agreements, decisions and awards made under this Part. R.S.O. 1990, c. P.15, s. 131 (5); 1997, c. 21, Sched. A, s. 5 (8).

Regulations

(6) Subject to the approval of the Lieutenant Governor in Council, the Arbitration Commission may make regulations,

- (a) governing the conduct of arbitrations and prescribing procedures for them;
- (b) prescribing forms and providing for their use. R.S.O. 1990, c. P.15, s. 131 (6).

Consultation before chair appointed

(6.1) No person shall be appointed as chair of the Arbitration Commission after this subsection comes into force unless the Solicitor General or his or her delegate has first consulted with or attempted to consult with,

(a) bargaining agents that, in the opinion of the Solicitor General or his or her delegate, are reasonably representative of the bargaining agents that represent members of police forces; and

(b) employers or employers' organizations that, in the opinion of the Solicitor General or his or her delegate, are reasonably representative of the employers of members of police forces. 1997, c. 21, Sched. A, s. 5 (9).

Roster for appointments under s. 122

(6.2) The chair of the Arbitration Commission shall establish and maintain a roster of persons who the chair may appoint under section 122. 1997, c. 21, Sched. A, s. 5 (9).

Appointment of persons not on roster

(6.3) The chair of the Arbitration Commission may appoint a person under section 122 who is not on the roster but only if the chair has first consulted with, or attempted to consult with, the other members of the Arbitration Commission. 1997, c. 21, Sched. A, s. 5 (9).

Same

(6.4) No person shall be placed on or removed from the roster unless the chair of the Arbitration Commission has first consulted with, or attempted to consult with, the other members of the Arbitration Commission. 1997, c. 21, Sched. A, s. 5 (9).

(7) Repealed: 2006, c. 34, s. 40.

PART VIII.1

TRANSFER OF ASSETS BETWEEN PENSION PLANS

Interpretation

131.1 (1) Words and expressions used in this Part have the same meaning as under the Pension Benefits Act unless the context requires otherwise. 2007, c. 7, Sched. 32, s. 1.

Definitions

(2) In this Part,

“receiving pension plan” means,

(a) a pension plan that is referred to in subsection 80 (1) of the Pension Benefits Act as a pension plan provided by the successor employer,

- (b) a pension plan that is referred to in subsection 81 (1) of that Act as the new pension plan, or
- (c) a pension plan for a pension fund to which assets are transferred in the circumstances referred to in subsection 81 (8) of that Act; (“régime de retraite cessionnaire”)

“transferring pension plan” means,

- (a) a pension plan that is referred to in clauses 80 (1) (a), (b) and (c) of the Pension Benefits Act as the employer’s pension plan,
- (b) a pension plan that is referred to in subsection 81 (1) of that Act as the original pension plan, or
- (c) a pension plan for a pension fund from which assets are transferred in the circumstances referred to in subsection 81 (8) of that Act. (“régime de retraite cédant”) 2007, c. 7, Sched. 32, s. 1; 2009, c. 30, s. 62.

Agreement governing transfers

131.2 (1) The administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System may enter into one or more agreements governing the transfer of assets between pension plans in any of the circumstances that are referred to in subsection 80 (1) or 81 (1) or (8) of the Pension Benefits Act in respect of eligible police force employees whose employment has been transferred between a municipal police force and the Ontario Provincial Police. 2007, c. 7, Sched. 32, s. 1.

Amount

(2) An agreement must set out the manner of determining the amount of assets to be transferred from a transferring pension plan to a receiving pension plan in respect of the pension benefits and ancillary benefits of an eligible police force employee who consents to the transfer of assets. 2007, c. 7, Sched. 32, s. 1.

Notice to employees

(3) An agreement must provide for the contents of the notice to be given to each eligible police force employee concerning the option of consenting to a transfer of assets in respect of his or her pension benefits and ancillary benefits under the transferring pension plan, and the notice must contain sufficient information to allow the employee to make an informed decision about whether to consent to the transfer. 2007, c. 7, Sched. 32, s. 1.

Transition

(4) An agreement cannot establish an effective date for a transfer of assets that is earlier than the day on which the Budget Measures and Interim Appropriation Act, 2007 received Royal Assent. 2007, c. 7, Sched. 32, s. 1.

Duty to file agreement

131.3 (1) If the administrators of the Public Service Pension Plan and the Ontario Municipal Employees Retirement System enter into an agreement under section 131.2, the administrators shall file it with the Superintendent of Financial Services. 2007, c. 7, Sched. 32, s. 1.

Effect of filing

(2) Sections 14 and 26 of the Pension Benefits Act do not apply with respect to a filed agreement or with respect to any amendment to a pension plan that relates to the implementation of a filed agreement. 2007, c. 7, Sched. 32, s. 1.

Eligibility of police force employees

131.4 (1) For the purposes of an agreement filed under section 131.3, a police force employee is an eligible police force employee if he or she is employed as a police force employee on the effective date of the proposed transfer of assets under the agreement in respect of his or her pension benefits and ancillary benefits under the transferring pension plan. 2007, c. 7, Sched. 32, s. 1.

Exception

(2) Despite subsection (1), a police force employee is not an eligible police force employee if he or she is receiving a pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System on the effective date of the proposed transfer of assets under the agreement. 2007, c. 7, Sched. 32, s. 1.

Same

(3) Despite subsection (1), a person is not an eligible police force employee if he or she is entitled, on the effective date of the proposed transfer of assets, to a deferred pension under the Public Service Pension Plan or the Ontario Municipal Employees Retirement System. 2007, c. 7, Sched. 32, s. 1.

Employee's consent to transfer of assets

131.5 (1) An eligible police force employee may consent to the transfer of assets under an agreement filed under section 131.3 from a transferring pension plan to a receiving pension plan in respect of his or her pension benefits and ancillary benefits under the transferring pension plan. 2007, c. 7, Sched. 32, s. 1.

Same

(2) The employee must indicate his or her consent in writing in the manner specified by the administrator of the transferring pension plan. 2007, c. 7, Sched. 32, s. 1.

Effect of consent

(3) Subsections 80 (4), (5), (6) and (7) and 81 (4), (5), (6), (7) and (8) of the Pension Benefits Act do not apply with respect to a transfer of assets to which the employee consents in accordance with this section. 2007, c. 7, Sched. 32, s. 1.

PART IX

REGULATIONS AND MISCELLANEOUS

Property in possession of police force

132. (1) This section applies to personal property of all kinds, except firearms and money, that comes into the possession of a police force under either of the following circumstances:

1. The property was stolen from its owner or was found abandoned in a public place, and the chief of police is unable to determine who owns it.
2. The property was seized by a member of the police force in the lawful execution of his or her duties, all legal proceedings in respect of the property have been completed, there is no court order for its disposition and there is no legal requirement, apart from this section, that it be retained or disposed of.

Sale

(2) The chief of police may cause the property to be sold, and the board may use the proceeds for any purpose that it considers in the public interest.

Perishable property

(3) If the property is perishable, it may be sold at any time without notice. R.S.O. 1990, c. P.15, s. 132 (1-3).

Non-perishable property

(4) If the property is not perishable, the following rules apply to its sale:

1. The property may be sold when it has been in the possession of the police force for at least one month, in the case of a motor vehicle as defined in the Highway Traffic Act or a bicycle, or for at least three months, in the case of other property.
2. The sale shall be by public auction or by public tender.
3. At least ten days notice of the time and place of the public auction shall be given by publication in a newspaper of general circulation in the municipality.
4. The sale may be adjourned, repeatedly if necessary, until the property is sold. R.S.O. 1990, c. P.15, s. 132 (4); 1997, c. 8, s. 38.

Claim of owner of property

(5) If a motor vehicle, bicycle or other property has been sold before it has been in the possession of the police force for three months and if the owner makes a claim before that time, the owner is entitled to receive the proceeds, less the costs of storage, advertising and sale.

Register of property

(6) The chief of police shall ensure that the police force keeps a register of property and that the following rules are followed:

1. The description and location of every item of property shall be recorded.
2. If the property is sold, full particulars shall be recorded.
3. If the property is returned to its owner, his or her name, address and telephone number shall be recorded.

Exception

(7) This section does not apply to a motor vehicle that is impounded under section 220 of the Highway Traffic Act. R.S.O. 1990, c. P.15, s. 132 (5-7).

Money

133. (1) This section applies to money that comes into the possession of a police force under the circumstances described in paragraph 1 or 2 of subsection 132 (1).

Accounting

(2) The money shall be accounted for according to the prescribed method.

Use of money

(3) If three months have elapsed after the day the money came into the possession of the police force and the owner has not claimed it, the board may use it for any purpose that it considers in the public interest. R.S.O. 1990, c. P.15, s. 133.

Firearms

134. (1) This section applies to firearms that are in the possession of a police force because they have been found, turned in or seized.

Safe-keeping, return to owner

(2) The chief of police shall ensure that firearms are securely stored, and that they are returned to their owners if there is a court order or other legal requirement to that effect.

Destruction

(3) If all possible court proceedings relating to a firearm have been completed or the time for them has expired and there is no court order or other legal requirement governing how the firearm is to be dealt with, the chief of police shall ensure that it is destroyed promptly, unless subsection (4) applies.

Firearm of special interest

(4) If the chief of police considers the firearm unique, an antique, or of educational or historical value, he or she shall notify the Director of the Centre of Forensic Sciences.

Idem

(5) If the Director indicates, within three months of receiving notice, that the firearm is required for the Centre's collection, the chief of police shall ensure that it is transferred there.

Idem

(6) If the Director indicates that the firearm is not required for the Centre's collection or fails to respond within three months of receiving notice, the chief of police shall ensure that the firearm is destroyed promptly.

Disposal otherwise than by destruction

(7) The chief of police may dispose of a firearm to which subsection (6) applies otherwise than by having it destroyed if he or she first obtains the Solicitor General's approval of the method of disposal. R.S.O. 1990, c. P.15, s. 134 (1-7).

Register of firearms

(8) The chief of police shall ensure that the police force keeps a register of firearms and that the following rules are followed:

1. Every firearm's description and location shall be recorded.
2. When a firearm ceases to be in the possession of the board or of a member of the police force, full particulars shall be recorded, including the name of the person who disposed of it and the date and method of disposal.
3. If the firearm is returned to its owner, his or her name, address and telephone number shall also be recorded.
4. On or before the 31st day of January in each year, a statement shall be filed with the Solicitor General listing the firearms that have come into the possession of the police force during the preceding calendar year, indicating which firearms are still being retained and which have been disposed of, and giving the particulars of disposition. R.S.O. 1990, c. P.15, s. 134 (8); 1997, c. 8, s. 39.

Regulations

135. (1) The Lieutenant Governor in Council may make regulations,

1. prescribing standards for police services;
 - 1.1 establishing and governing standards concerning the adequacy and effectiveness of police services, including prescribing methods for monitoring and evaluating the adequacy and effectiveness of police services against such standards;
2. prescribing procedures for the inspection and review by the Solicitor General of police forces;
3. requiring municipalities to provide police detention facilities, governing those facilities and providing for their inspection;

4. providing for financial aid to police training schools;
 - 4.1 prescribing additional powers and duties of the Independent Police Review Director;
5. prescribing the minimum amount of remuneration to be paid by municipalities to the members of boards who are appointed by the Lieutenant Governor in Council or Solicitor General;
6. prescribing the procedures to be followed by boards and the places at which their meetings shall be held;
 - 6.1 governing the selection and appointment of members of boards;
 - 6.2 prescribing courses of training for members of boards and prescribing standards in that connection;
 - 6.3 prescribing a code of conduct for members of boards;
7. prescribing the forms of oaths or affirmations of office and secrecy for the purposes of section 32 (members of boards), section 45 (police officers), subsection 52 (6) (auxiliary members of police forces), subsection 53 (9) (special constables) and subsection 54 (8) (First Nations Constables);
8. respecting the government, operation and administration of police forces;
9. governing the qualifications for the appointment of persons to police forces and for their promotion;
10. prescribing the method for determining the amounts owed by municipalities for police services provided by the Ontario Provincial Police under section 5.1, prescribing the time when and manner in which the payments are to be made, (and, for such purposes, classifying municipalities and prescribing different methods, different times or different manners for different classes of municipalities), prescribing the interest, or the method of determining the interest, owed on late payments and governing payment credits and refunds for overpayments;
11. requiring territories without municipal organization to pay for police services provided by the Ontario Provincial Police and,
 - i. governing the determination of the amounts payable for those services,
 - ii. governing the payment of those amounts, including providing for the calculation and payment of interest and penalties,
 - iii. governing the collection of those amounts, including providing for payment credits and refunds for overpayments, or providing that all or part of those amounts may be collected under the Provincial Land Tax Act, 2006 as if they were taxes imposed under that Act, and
 - iv. for the purposes described in subparagraphs i, ii and iii, establishing different requirements for different classes of territories;
12. respecting the political activities in which municipal police officers are permitted to engage;
13. establishing the ranks that shall be held by members of municipal police forces;

14. prescribing the minimum salary or other remuneration and allowances to be paid to members of municipal police forces;

14.1 providing for the granting of service badges to members of the Ontario Provincial Police or any class thereof and for the payment of allowances to those members who are granted service badges;

15. regulating or prohibiting the use of any equipment by a police force or any of its members;

16. regulating the use of force by members of police forces;

17. prescribing standards of dress for police officers on duty and prescribing requirements respecting police uniforms;

18. prescribing courses of training for members of police forces and prescribing standards in that connection;

19. governing the conduct, duties, suspension and dismissal of members of police forces;

20. describing the circumstances under which members of police forces are permitted and not permitted to pursue persons by means of motor vehicles, and prescribing procedures that shall be followed when a person is pursued in that manner;

20.1 prescribing the nature of the information that may be disclosed under subsection 41 (1.1) by a chief of police or a person designated by a chief of police, to whom it may be disclosed and the circumstances in which it may be disclosed;

21. prescribing the records, returns, books and accounts to be kept by police forces and boards and their members;

22. prescribing the method of accounting for fees and costs that come into the hands of members of police forces;

23. prescribing a complaints process for the making of a complaint by a member of the public to a chief of police or his or her delegate, including but not limited to,

i. setting out conditions in respect of the complaint, and

ii. setting out limits respecting complaints made by the member of the public to the Independent Police Review Director under Part V in respect of the same matter;

23.1 Repealed: 2007, c. 5, s. 12 (2).

24. establishing procedural rules for anything related to the powers, duties or functions of the Independent Police Review Director under Part V;

24.1 establishing regional or other advisory committees consisting of representatives from community groups, representatives from the policing community and any other persons who may be prescribed, for the purpose of advising the Independent Police Review Director on matters relating to his or her duties under subsection 58 (4), and respecting the appointment of such representatives and other persons to the committees;

25. defining “frivolous or vexatious” and “made in bad faith” for the purposes of paragraph 1 of subsection 60 (4);
26. prescribing a code of conduct in which offences constituting misconduct are described for the purposes of section 80;
- 26.1 respecting the application of Part V, with such modifications as may be specified in the regulation, to a police officer in the circumstances referred to in subsection 90 (3);
- 26.2 prescribing additional persons or classes of persons for the purposes of subsection 94 (1);
- 26.3 prescribing qualifications, conditions or requirements, if any, for the purposes of subsection 94 (2), including prescribing different qualifications, conditions or requirements for different persons or classes of persons, and exempting persons or classes of persons from specified qualifications, conditions or requirements;
- 26.4 governing procedures, conditions or requirements for the investigation of complaints under Part V;
- 26.5 providing for the payment of fees and expenses to witnesses at hearings conducted under Part V;
27. prescribing the method of accounting for money to which section 133 applies;
28. prescribing forms and providing for their use;
29. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed;
30. respecting any matter that is necessary or advisable to implement this Act effectively. R.S.O. 1990, c. P.15, s. 135 (1); 1995, c. 4, s. 4 (11); 1997, c. 8, s. 40; 1997, c. 17, s. 10; 2006, c. 33, Sched. Z.3, s. 27; 2007, c. 5, s. 12 (1, 2).

Conflict

(1.1) In the event of a conflict between a rule established by a regulation made under paragraph 24 of subsection (1) and a rule established by the Independent Police Review Director under clause 56 (1) (a), the rule established by regulation prevails. 2007, c. 5, s. 12 (3).

Same

(1.2) In the event of a conflict between a procedure, condition or requirement made under paragraph 26.4 of subsection (1) and a procedural rule or guideline established by the Independent Police Review Director under clause 56 (1) (b), the procedure, condition or requirement made by regulation prevails. 2007, c. 5, s. 12 (3).

Same

(2) A regulation made under subsection (1) may be general or particular in its application. R.S.O. 1990, c. P.15, s. 135 (2).

Crown bound

136. This Act binds the Crown in right of Ontario. R.S.O. 1990, c. P.15, s. 136.

PART X

COURT SECURITY

Court security

Municipalities with police forces

137. (1) A board that is responsible for providing police services for one or more municipalities has the following responsibilities, with respect to premises where court proceedings are conducted:

1. Ensuring the security of judges and of persons taking part in or attending proceedings.
2. During the hours when judges and members of the public are normally present, ensuring the security of the premises.
3. Ensuring the secure custody of persons in custody who are on or about the premises including persons taken into custody at proceedings.
4. Determining appropriate levels of security for the purposes of paragraphs 1, 2 and 3. R.S.O. 1990, c. P.15, s. 137 (1); 1997, c. 8, s. 41.

Other parts of Ontario

(2) The Ontario Provincial Police Force has the responsibilities set out in paragraphs 1, 2, 3 and 4 of subsection (1) in those parts of Ontario in which it has responsibility for providing police services.

Common law replaced

(3) The responsibilities created by this section replace any responsibility for ensuring court security that existed at common law. R.S.O. 1990, c. P.15, s. 137 (2, 3).