



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **POLICE ACT**

## PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## POLICE ACT

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## POLICE ACT

### CHAPTER P-11.1

#### 1. Definitions

In this Act

- (a) “**auxiliary constable**” means a person who is appointed as an auxiliary constable under subsection 45(1);
- (b) “**chief officer**” means, in respect of a police service, the chief officer, or the commanding officer, of the police service;
- (c) “**civilian instructor**” means a person who is appointed as a civilian instructor of the Atlantic Police Academy under subsection 51(1);
- (d) “**Code**” means the Code of Professional Conduct and Discipline established by the regulations;
- (e) “**complaint**” means a complaint made under Part VII or Part VIII of this Act, as the context indicates;
- (f) “**council**” means the council of a municipality;
- (g) “**Department**” means the Department of Justice and Public Safety;
- (h) “**Deputy Police Commissioner**” means the person who is appointed as the Deputy Police Commissioner under section 16;
- (i) “**Director**” means the Director of the Atlantic Police Academy;
- (j) “**fiscal year**” means, in respect of the Government, the period beginning on April 1 in one year and ending on March 31 in the next year;
- (k) “**former Act**” means the *Police Act* R.S.P.E.I. 1988, Cap. P-11;
- (l) “**instructing officer**” means a person who is appointed as an instructing officer of the Atlantic Police Academy under subsection 48(1), and does not include the Director;
- (m) “**investigator**” means a person who
  - (i) is appointed by the Minister under section 4 to conduct an investigation into any matter relating to policing and law enforcement in the province,
  - (ii) is employed or hired by the Police Commissioner under subsection 17(2) to conduct investigations in respect of complaints, or
  - (iii) is designated by the chief officer of a police department under section 26 to conduct an investigation into a complaint,
 as the context indicates;
- (m.1) “**Manager**” means the person who is employed or hired as the Manager of the office of the Police Commissioner under subsection 17(2.2);
- (n) “**member of a police department**” means the chief officer of the police department or any other police officer of the police department, but does not include any auxiliary constable appointed to assist the members of the police department;

- (o) “**member of a police service**” means a person who is
  - (i) a member of a police department,
  - (ii) a member of the Royal Canadian Mounted Police, where an agreement entered into under subsection 8(1) is in force, or
  - (iii) a member of the Provincial Police Service, where the Provincial Police Service is established under subsection 6(1);
- (p) “**member of the Provincial Police Service**” means the chief officer of the Provincial Police Service or any other police officer of the Provincial Police Service, but does not include any auxiliary constable appointed to assist the members of the Provincial Police Service;
- (q) “**member of the Royal Canadian Mounted Police**” means the commanding officer of the Royal Canadian Mounted Police in the province or any other member of the Royal Canadian Mounted Police who is stationed in the province pursuant to an agreement entered into under subsection 8(1), but does not include any auxiliary constable appointed to assist the members of the Royal Canadian Mounted Police;
- (r) “**Minister**” means the Minister of Justice and Public Safety and Attorney General;
- (s) “**police cadet**” means a person who is appointed as a police cadet under subsection 50(1);
- (t) “**Police Commissioner**” means the person who is appointed as the Police Commissioner under section 16;
- (u) “**police department**” means
  - (i) the police department established for the City of Charlottetown,
  - (ii) the police department established for the City of Summerside,
  - (iii) the police department established for the Community of Borden-Carleton,
  - (iv) the police department established for the Town of Kensington, or
  - (v) any other police department that is established for a municipality as defined in the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1;
- (v) “**police service**” means
  - (i) the Provincial Police Service, where the Provincial Police Service is established under subsection 6(1),
  - (ii) the Royal Canadian Mounted Police, where an agreement entered into under subsection 8(1) is in force, or
  - (iii) a police department;
- (w) “**Provincial Police Service**” means the Prince Edward Island Provincial Police Service referred to in section 6;
- (x) “**security police officer**” means a person who is appointed as a security police officer under subsection 46(1). *2006,c.16,s.1; 2008,c.57,s.1; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3; 2016,c.44,s.278.*

## 2. Conflict with another enactment

- (1) Where there is a conflict between a provision of this Act or the regulations made under this Act and a provision of any other enactment, the provision of this Act or the regulations made under this Act prevails.



**Conflict with a collective agreement**

- (2) Where there is a conflict between a collective agreement that is binding on the members of a police department and this Act or between the agreement and the regulations, this Act and the regulations prevail. *2006,c.16,s.2.*

**PART I — ADMINISTRATION****3. Administration of Act and regulations**

- (1) The Minister is responsible for policing in the province and for the administration of this Act and the regulations.

**Duties of Minister**

- (2) The Minister shall promote the preservation of peace, the prevention of crime and the efficiency, adequacy and effectiveness of police services.

**Powers of Minister**

- (3) The Minister may, for the purpose of carrying out his or her functions under this Act,
- (a) liaise, consult and co-operate with any person or body in Canada to encourage consistency in procedures, proceedings, standards and any other matters relating to police services;
  - (b) consult with and advise councils and chief officers of police departments on all matters relating to police departments and police matters;
  - (c) provide to councils and chief officers of police departments information and advice respecting the management and operation of police departments, techniques in handling special problems, training and other information that the Minister considers to be of assistance;
  - (d) assist in co-ordinating the work and efforts of the police services in the province; and
  - (e) issue directives, standards and guidelines to any police service, the Atlantic Police Academy, or an employer of a security police officer in the province for the attainment of the purposes of subsection (2).

**Delegation**

- (4) The Minister may delegate to any employee of the Department any of the functions of the Minister under this Act.

**Compliance with directives, standards and guidelines**

- (5) A police service, the Atlantic Police Academy, or an employer of a security police officer shall comply with any directive, standard or guideline issued to it by the Minister under subsection (3).

**Notice**

- (6) Where the Minister issues a directive, standard or guideline to a police service, the Atlantic Police Academy, or an employer of a security police officer under subsection (3), the Minister shall ensure that a copy of the directive, standard or guideline is provided, as soon as possible, to the police service, the Atlantic Police Academy or the employer subject to the directive, standard or guideline. *2006,c.16,s.3; 2008,c.57,s.2.*

**4. Investigations**

- (1) The Minister may appoint such person as the Minister considers appropriate as an investigator and may direct the investigator to conduct an investigation into any matter relating to policing and law enforcement in the province, including an investigation respecting the operation and administration of a police department.

**Support staff**

- (2) The Minister may appoint a person with technical or other specialized knowledge to assist an investigator.

**Powers, authorities, privileges, rights, and immunities of investigator**

- (3) An investigator has all of the powers, authorities, privileges, rights and immunities of a police officer under subsection 15(2) during the investigation and any proceedings relating to the matter under investigation.

**Report**

- (4) On completing the investigation, an investigator shall prepare and submit to the Minister a written report of his or her findings.

**Action**

- (5) On receipt of the report of an investigator, the Minister shall review the report and may, after doing so, take whatever action the Minister considers appropriate in the circumstances.

**Reimbursement of costs**

- (6) Where the person who is appointed as an investigator under subsection (1) is a member of the police department of a municipality, the Government shall, upon written request from the municipality, reimburse the municipality for the salary of, and the expenses incurred by, the member while acting as an investigator.

**Responsibility for costs**

- (7) Where the police department of a municipality is the subject of an investigation conducted under this section, the municipality shall, after receipt of a notice from the Government of the costs it incurred in respect of the investigation, reimburse the Government for those costs, unless the Government waives the payment of those costs under subsection (9).

**Recovery of costs**

- (8) The costs for which a municipality is required under subsection (7) to reimburse the Government are a debt due by the municipality to the Government, are payable on demand and
- (a) may be recovered, with costs, by the Government by action in any court of competent jurisdiction; or
  - (b) may be deducted, by the Government, from any grant payable out of provincial funds to the municipality.

**Waiver of debt due**

- (9) The Government may waive the payment of all or any part of any debt due by a municipality to the Government under this section. *2006, c.16, s.4.*





**5. Provision of policing services or removal of investigation**

- (1) The Minister may, at any time the Minister considers it appropriate to do so, by order,
- (a) require the police department of a municipality to provide policing services for another municipality;
  - (b) require the Royal Canadian Mounted Police, or the Provincial Police Service, to provide policing services in a municipality; and
  - (c) require a police service to transfer the investigation of an alleged offence to another police service, and require that other police service to complete the investigation of the alleged offence.

**Notice**

- (2) Where the Minister makes an order under subsection (1), the Minister shall ensure that a copy of the order is provided, as soon as possible, to the chief officer of each police service affected by the order.

**Duty to deliver records for criminal case**

- (3) A member of a police service shall, upon the request of the Minister, deliver to any person named by the Minister all warrants, papers, exhibits, photographs and other information or records in his or her possession or under his or her control dealing with any criminal case that is the subject of an investigation by another police service.

**Reimbursement of costs**

- (4) Where the police department of a municipality has, pursuant to an order made under subsection (1), provided policing services for another municipality, the Government shall, upon written request of the municipality whose police department provided the policing services, reimburse that municipality for the salary and other expenses incurred by its police department in order to provide those policing services.

**Responsibility for costs**

- (5) A municipality that receives policing services from the police department of another municipality, or from the Royal Canadian Mounted Police or the Provincial Police Service, pursuant to an order made under subsection (1) shall reimburse the Government for the costs incurred by the Government in respect of the provision of the policing services pursuant to subsection (4), unless the Government waives the payment of those costs under subsection (7).

**Recovery of costs**

- (6) The costs for which a municipality is required under subsection (5) to reimburse the Government are a debt due by the municipality to the Government, are payable on demand and
- (a) may be recovered, with costs, by the Government by action in any court of competent jurisdiction; or
  - (b) may be deducted, by the Government, from any grant payable out of provincial funds to the municipality.

**Waiver of debt due**

- (7) The Government may waive the payment of all or any part of any debt due by a municipality to the Government under this section. *2006, c.16, s.5.*

**PART II — PRINCE EDWARD ISLAND PROVINCIAL POLICE SERVICE****6. Provincial Police Force**

- (1) Subject to subsection (7), the Lieutenant Governor in Council may establish a police force to be known as the Prince Edward Island Provincial Police Service.

**Control**

- (2) The Provincial Police Service shall, on and after its establishment under subsection (1), be under the control and direction of the Minister.

**Chief officer**

- (3) The Minister may, with the approval of the Lieutenant Governor in Council, appoint a person to be the chief officer of the Provincial Police Service.

**Provincial police officers**

- (4) The chief officer of the Provincial Police Service may, with the approval of the Minister, from time to time appoint eligible persons to the Provincial Police Service to be known as provincial police officers and may designate them as officers with a specified rank.

**Oath or affirmation**

- (5) A person appointed as a member of the Provincial Police Service shall, before commencing his or her duties as a member of the Provincial Police Service, take the oath, or solemn affirmation, of office as prescribed in the regulations.

**Annual report**

- (6) Within three months after the end of each fiscal year of the Government, the chief officer of the Provincial Police Service shall prepare and submit to the Minister an annual report on the affairs of the Provincial Police Service during the previous fiscal year of the Government.

**Where agreement in force**

- (7) No police force may be established under this section while an agreement made pursuant to subsection 8(1) is in force. *2006, c.16, s.6.*

**7. Authorities, responsibilities and duties**

- (1) The authority, responsibility and duty of a person who is member of the Provincial Police Service include
- (a) maintaining law and order;
  - (b) preventing crime;
  - (c) enforcing the penal provisions of
    - (i) the laws of the province, and
    - (ii) the laws of Canada;
  - (d) assisting victims of crime;
  - (e) apprehending persons who may lawfully be taken into custody;
  - (f) laying charges and assisting in prosecutions;
  - (g) executing warrants that are to be executed by peace officers;
  - (h) obeying the lawful orders of the chief officer;
  - (i) assisting in the enforcement of an order of the court; and



- (j) assisting a coroner in the performance of the coroner's functions, and the person may exercise these authorities and shall discharge these responsibilities and duties throughout the province.

**Policing services**

- (2) The Provincial Police Service shall provide the policing services described in subsection (1) and such other policing services as the Minister may direct. *2006, c.16, s.7.*

**PART III — ROYAL CANADIAN MOUNTED POLICE****8. R.C.M.P. performing as Provincial Police Service by agreement**

- (1) The Lieutenant Governor in Council may, from time to time, enter into an agreement or agreements with the Government of Canada for the use or employment of the Royal Canadian Mounted Police for the policing of the province or any part of the province.

**Terms and conditions**

- (2) An agreement entered into under subsection (1) may contain such terms and conditions, including financial arrangements, as may be agreed upon and the Lieutenant Governor in Council shall have full power and authority to carry out any such agreement.

**Responsibilities of RCMP**

- (3) When an agreement entered into under subsection (1) is in force, the Royal Canadian Mounted Police are responsible for the policing of all or any part of the province as provided in the agreement.

**Authorities, responsibilities, duties**

- (4) Subject to the terms of the agreement entered into under subsection (1), the members of Royal Canadian Mounted Police shall have the authorities, responsibilities and duties assigned to the members of the Provincial Police Service under subsection 7(1) and may exercise these authorities and shall discharge these responsibilities and duties throughout the province.

**Policing services**

- (5) The Royal Canadian Mounted Police shall provide the policing services described in subsection (4) and such other policing services as the Minister may direct.

**Control and supervision**

- (6) Subject to the terms of the agreement entered into under subsection (1), the members of the Royal Canadian Mounted Police shall be under the general control and supervision of the Minister.

**Application of Royal Canadian Mounted Police Act (Canada)**

- (7) For greater certainty, where an agreement entered into under subsection (1) is in force,  
(a) the *Royal Canadian Mounted Police Act* (Canada); and  
(b) the complaints process set out in that Act,  
continue to apply to the members of the Royal Canadian Mounted Police.

**Register**

- (8) The commanding officer in the province of the Royal Canadian Mounted Police shall ensure that a register is kept of all persons who are appointed by the commanding officer under

section 45 as auxiliary constables to assist the members of the Royal Canadian Mounted Police in the performance of their duties in which is recorded

- (a) the name of each auxiliary constable;
- (b) the date of the appointment and the date of revocation or suspension of the appointment; and
- (c) the date of birth of the auxiliary constable,

and shall file with the Minister, within three months after the end of each calendar year, a copy of the register as it reads on December 31 of the preceding calendar year, including any changes made to the register during the preceding calendar year.

**Current agreement deemed entered into under subsection (1)**

- (9) For the purposes of this Act, the agreement called the “Prince Edward Island Provincial Police Services Agreement” that was entered into in 1992 by the Lieutenant Governor in Council under the former Act with the Government of Canada and that provides for the use or employment of the Royal Canadian Mounted Police for the policing of the province is deemed to have been entered into under subsection (1) and to continue in force according to its terms. *2006, c.16, s.8; 2008, c.57, s.3.*

## PART IV — POLICE DEPARTMENTS

### 9. Chief officer

- (1) Where a police department is established for a municipality, the council of the municipality shall appoint a person to be the chief officer of the police department.

**Permanent appointment - qualifications**

- (2) A person shall not be appointed, in a permanent capacity, as the chief officer of a police department, unless the person has the training and other qualifications required by the regulations, but a person may, without such training and qualifications, be appointed, in a temporary capacity, as the chief officer of a police department, if the person is a police officer of the police department.

**Temporary appointment - qualifications**

- (3) A person shall not be appointed, in a temporary capacity, as the chief officer of a police department for a period in excess of six months.

**Minister’s approval of reappointment**

- (4) A person who has been appointed, in a temporary capacity, as the chief officer of a police department may not be reappointed as the chief officer without the prior approval of the Minister, and any such reappointment shall be for the shortest time period that the Minister considers necessary. *2006, c.16, s.9; 2008, c.57, s.4.*

### 10. Appointment of municipal police officers and staff

- (1) The chief officer of a police department shall
  - (a) appoint the police officers of the police department;
  - (b) appoint the civilian employees of the police department; and
  - (c) subject to the Code and to any collective agreement binding on the members of the police department, promote, discipline, including suspend or dismiss, or reinstate such officers and employees.



**Oath or affirmation**

- (2) A person who is appointed as a member of a police department under this section or section 9 shall, before commencing in the performance of his or her duties as a member of the police department, take the oath, or solemn affirmation, of office as prescribed in the regulations.

**Identification card**

- (3) The chief officer of a police department shall ensure that an identification card containing the information required by the regulations is issued to a person who is appointed as a member of the police department before that person commences in the performance of his or her duties.

**Idem**

- (4) A copy of an identification card purporting to be signed by the chief officer is proof that the individual named therein is a member of the police department referred to in the card.

**Idem**

- (5) A member of a police department shall, on demand by any person, produce his or her identification card for inspection, unless in the opinion of the member it would be dangerous for the member to comply with the demand.

**Register**

- (6) The chief officer of a police department shall ensure that a register is kept of all persons who are appointed by the chief officer
- (a) under subsection (1) as police officers of the police department; and
  - (b) under section 45 as auxiliary constables to assist the members of the police department in the performance of their duties,

in which is recorded

- (c) the name of each police officer and auxiliary constable;
- (d) the date of the appointment, and the date of any revocation or suspension of the appointment, of each police officer and auxiliary constable;
- (e) the date of birth of each police officer and auxiliary constable; and
- (f) the qualifications required by the regulations of each police officer and auxiliary constable as of the date of his or her appointment.

**Annual report**

- (7) The chief officer of a police department of a municipality shall, within three months after the end of each calendar year, file with the Minister an annual report for the preceding calendar year, which includes the information and documents required by the regulations.

**Direction of Minister**

- (8) The police departments shall act under the direction of the Minister.

**In-service training courses**

- (9) The chief officer of a police department shall ensure that the police officers of the police department are provided, when required by the regulations or by any directive, standard or guideline issued to the police department by the Minister under subsection 3(3), with an opportunity to take courses, areas or types of training prescribed by the regulations or set out in such a directive, standard or guideline. *2006, c.16, s.10; 2008, c.57, s.5.*

**11. Police officers – appointment qualifications**

A person shall not be appointed as a police officer of a police department, whether in a permanent or temporary capacity, unless the person has the qualifications, including those related to training and experience, required by the regulations. *2006,c.16,s.11.*

**12. Certificate**

A certificate purporting to be issued and signed by a chief officer of a police department to the effect that the person to whom it is issued is a member of the police department is, without proof of the chief officer's appointment, authority or signature, admissible in evidence, and is, in the absence of evidence to the contrary, proof of the facts stated therein. *2006,c.16,s.12.*

**13. Authority, responsibility and duties**

The authority, responsibility and duty of a person who is member of a police department include

- (a) maintaining law and order;
- (b) preventing crime;
- (c) enforcing the penal provisions of
  - (i) the laws of the province,
  - (ii) the laws of Canada, and
  - (iii) the bylaws of the municipality served by the police department;
- (d) assisting victims of crime;
- (e) apprehending persons who may lawfully be taken into custody;
- (f) laying charges and assisting in prosecutions;
- (g) executing warrants that are to be executed by peace officers;
- (h) obeying the lawful orders of the chief officer;
- (i) assisting in the enforcement of an order of the court; and
- (j) assisting a coroner in the performance of the coroner's functions,

and the person may exercise these authorities and shall discharge these responsibilities and duties throughout the province. *2006,c.16,s.13.*

**14. Code - compliance with**

- (1) A member of a police department shall carry out his or her duties, and exercise his or her powers, authorities, and rights under this Act in a manner consistent with the Code.

**Application**

- (2) For greater certainty, the Code applies in respect of
- (a) any disciplinary proceeding involving a member of a police department that is conducted under this Act in respect of a complaint; and
  - (b) any other disciplinary proceeding involving a member of a police department that is conducted internally by the police department outside of this Act, whether that proceeding is governed by a collective agreement that is binding on the members of the police department or not. *2006,c.16,s.14.*



**PART V — POWERS, AUTHORITIES AND IMMUNITIES OF POLICE OFFICERS****15. “police officer”**

- (1) In this section, “**police officer**” means
- (a) a member of the Provincial Police Service, where the Provincial Police Service is established under subsection 6(1);
  - (b) a member of the Royal Canadian Mounted Police, where an agreement entered into under subsection 8(1) is in force;
  - (c) a member of a police department;
  - (d) the Director of the Atlantic Police Academy; and
  - (e) an instructing officer of the Atlantic Police Academy.

**Powers, authorities, privileges, rights, and immunities**

- (2) A police officer is a peace officer and has
- (a) all the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or provincial enactment; and
  - (b) the power and authority to enforce and to act under every enactment of the province.

**Commission of offence**

- (3) A police officer who is charged with an offence under a provincial enactment shall not be convicted if it is made to appear to the judge before whom the offence is being prosecuted that the police officer
- (a) committed the offence while discharging his or her responsibilities;
  - (b) was reasonably justified in committing the offence having regard to the responsibility being discharged; and
  - (c) conducted himself or herself in a reasonable manner having regard to all of the circumstances.

**Liability**

- (4) No action or other proceeding for damages lies or shall be instituted against a police officer for anything done by the police officer in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for any neglect or default of the police officer in the performance or exercise in good faith of any such duty or power. *2006,c.16,s.15; 2008,c.57,s.6.*

**PART VI — POLICE COMMISSIONER****16. Appointment of Police Commissioner**

- (1) The Lieutenant Governor in Council, after consultation with the Minister, shall appoint a person who has the qualifications required by the regulations to be the Police Commissioner.

**Corporation sole**

- (1.1) The Police Commissioner is a corporation sole.

**Deputy Police Commissioner**

- (2) The Lieutenant Governor in Council, after consultation with the Minister, shall appoint a person who has the qualifications required by the regulations to be the Deputy Police Commissioner, and the Deputy Police Commissioner shall perform the functions of the Police Commissioner where
- (a) the Police Commissioner is absent or ill;
  - (b) the office of the Police Commissioner is vacant; or
  - (c) the Police Commissioner is unable to act because of a conflict of interest or for any other reason.

**Term of office and re-appointment**

- (3) Subject to subsection (4), the Police Commissioner and Deputy Police Commissioner shall hold office for a term not exceeding five years, but shall continue in office until a successor is appointed, and may be *re*-appointed.

**Resignation**

- (4) The Police Commissioner and Deputy Police Commissioner may, at any time, resign his or her office by submitting a written resignation to the Minister.

**Remuneration and expenses**

- (5) The Police Commissioner and Deputy Police Commissioner shall be paid such remuneration, and be entitled to such necessary expenses, as the Lieutenant Governor in Council determines. *2006, c.16, s.16; 2008, c.57, s.7.*

**17. Provision of facilities to the Police Commissioner**

- (1) The Minister shall provide to the Police Commissioner such facilities as the Minister considers appropriate.

**Staff**

- (2) The Police Commissioner may employ or hire such staff, investigators or experts as the Police Commissioner may require for the proper conduct of the functions of the Police Commissioner.

**Qualifications**

- (2.1) A person shall not be employed or hired as an investigator under subsection (2) unless the person has the qualifications, including those relating to training and experience, required by the regulations.

**Manager**

- (2.2) The Police Commissioner shall employ or hire a person as the Manager of the office of the Police Commissioner who has the qualifications, including those relating to training and experience, required by the regulations to be employed or hired as an investigator under subsection (2).

**Status as investigator**

- (2.3) The Manager is, by virtue of his or her office, deemed to be an investigator who is employed or hired by the Police Commissioner under subsection (2).





**Idem**

- (3) The Police Commissioner shall define the duties and fix the remuneration of a person employed or hired by the Police Commissioner pursuant to subsections (2) and (2.2).

**Powers, authorities, rights, privileges and immunities of investigator**

- (4) A person who is employed or hired by the Police Commissioner as an investigator to conduct an investigation in respect of a complaint has all the power, authorities, rights, privileges and immunities of a police officer under subsection 15(2) during the investigation and any proceeding conducted under this Act relating to the complaint.

**Application of *Civil Service Act***

- (5) The *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8 does not apply to
- (a) the Police Commissioner or the Deputy Police Commissioner; or
  - (b) any person employed or hired by the Police Commissioner.

**Budget**

- (6) The Police Commissioner shall, before the end of each fiscal year of the Government, present to the Minister, for his or her approval, a budget for the ensuing fiscal year that estimates the expenditures that the Police Commissioner considers necessary to perform his or her functions during that fiscal year. *2006, c.16, s.17; 2008, c.57, s.8.*

**18. Functions**

- (1) The Police Commissioner shall perform the functions assigned to the Police Commissioner by this Act or the regulations, or by the Lieutenant Governor in Council or the Minister.

**Powers**

- (2) The Police Commissioner has, in relation to any matter before the Police Commissioner under this Act, the power
- (a) to summon any person before the Police Commissioner and to require that person to give oral or written evidence on oath and to produce such documents and things under that person's control as the Police Commissioner considers necessary to the full review of that matter;
  - (b) to administer oaths and solemn affirmations; and
  - (c) to receive and accept on oath or solemn affirmation, or by affidavit, such evidence and other information as the Police Commissioner considers appropriate, whether or not such evidence or information would be admissible in a court of law.

**Certification of contempt**

- (3) The Police Commissioner may find a person who
- (a) fails or refuses to appear before the Police Commissioner;
  - (b) refuses to be sworn as a witness;
  - (c) fails or refuses without just cause to answer any relevant question or to produce documents or things in his or her control; or
  - (d) disrupts or otherwise obstructs a hearing before the Police Commissioner,
- to be in contempt and may certify the contempt to the Supreme Court by issuing a certificate describing the contempt and causing it to be filed with the Registrar of the Supreme Court.

**Inquiry by Supreme Court**

- (4) On the filing of a certificate under subsection (3), a judge of the Supreme Court may summon the person found to be in contempt, may inquire into the matter and, after hearing any statement that may be offered in defence, may punish that person as if he or she had been guilty of contempt of the Court or suspend punishment on condition that the person appears, testifies, produces or ceases to disrupt or obstruct the hearing, as required.

**Hearings**

- (5) The Police Commissioner may hold hearings anywhere in the province relating to the performance of the functions assigned to the Police Commissioner.

**Rules of practice and procedure**

- (6) The Police Commissioner shall make rules respecting practice and procedure before the Police Commissioner and may prescribe forms for that purpose. *2006, c.16, s.18; 2008, c.57, s.9; 2008, c.20, s.72(72).*

**19. Annual report**

- (1) The Police Commissioner shall, within six months after the end of each calendar year, file with the Minister an annual report for the preceding calendar year which includes the following documents and information:
- (a) the number and nature of the requests made to the Commissioner under section 28 for the review of a decision of a chief officer or the Director concerning a complaint about the conduct of a member of a police department or an instructing officer;
  - (b) the number and nature of complaints made to the Police Commissioner under section 35 concerning the conduct of a chief officer, the Director or a security police officer;
  - (c) the number and nature of the investigations that the Manager causes to be made under section 29 and section 40;
  - (d) a summary of
    - (i) any decision of the Police Commissioner made under subsection 32(8) or 43(8), and
    - (ii) any informal resolution of a complaint effected by an investigator under subsection 29(2) or 40(2);
  - (e) the number and nature of the decisions made
    - (i) by an investigator under subsection 29(3) or 40(3), and
    - (ii) by the Manager under subsection 39(1) or (2);
  - (f) a financial statement, in a form approved by the Minister, outlining the expenditures incurred during the preceding year by the Police Commissioner in performing his or her functions under this Act;
  - (g) such other information and documents as the Minister may direct.

**No identifying information**

- (2) The Police Commissioner shall ensure that an annual report contains no information that indicates the identity of any person involved in a complaint referred to in the annual report. *2006, c.16, s.19; 2008, c.57, s.10.*



## PART VII — COMPLAINTS CONCERNING POLICE OFFICERS AND INSTRUCTING OFFICERS

### 20. Interpretation

In this Part,

- (a) “**complainant**” means the person who has made a complaint under this Part concerning the conduct of a police officer or an instructing officer;
- (b) “**police officer**” means a person who is a police officer of a police department, but does not include the chief officer of the police department;
- (c) “**respondent**” means
  - (i) in the case of a complaint concerning the conduct of a police officer, the police officer whose conduct is the subject of the complaint, and
  - (ii) in the case of a complaint concerning the conduct of an instructing officer, the instructing officer whose conduct is the subject of the complaint;
- (d) “**party**” means, in respect of a complaint, the complainant or the respondent.  
*2006, c.16, s.20.*

### 21. Complaints

- (1) Subject to this Part, any person may make a complaint about the conduct of
  - (a) a police officer; or
  - (b) an instructing officer,

if the person has reasonable grounds for believing that the conduct of the police officer or instructing officer constitutes a breach of the Code.

#### Persons who may make complaint

- (2) A person may make a complaint under this Part concerning the conduct of a police officer or an instructing officer only if the person was directly affected by that conduct and if the complaint is made within 6 months after the facts on which it is based occurred.

#### Exception where person is a minor

- (3) Where a person directly affected by the conduct that is of concern is a minor, a parent or guardian of the minor may make a complaint on the minor’s behalf and, for the purposes of this Part, is deemed to be directly affected by the conduct that is the subject of the complaint.

#### Exception where person is mentally incompetent

- (4) Where a person directly affected by the conduct that is of concern is mentally incompetent, a parent or guardian of that person may make a complaint on the person’s behalf and, for the purposes of this Part, is deemed to be directly affected by the conduct that is the subject of the complaint.

#### Persons who may not make a complaint

- (5) A complaint may not be made under this Part by
  - (a) any member of a police department;
  - (b) the Police Commissioner;
  - (c) an instructing officer;
  - (d) the Director; or
  - (e) a security police officer.

**Other complaints not precluded**

- (6) For greater certainty, nothing in this Part precludes any person from making a complaint in any manner or at any time other than as required or permitted under this Part to
- (a) a police department concerning the conduct of a police officer of that police department; or
  - (b) the Director concerning the conduct of an instructing officer,
- but such a complaint shall not be considered to be a complaint that has been made under this Part. *2006,c.16,s.21; 2008,c.57,s.11.*

**22. Complaints concerning instructing officers**

Sections 23 to 33 shall be interpreted and applied in respect of complaints concerning the conduct of instructing officers as if

- (a) each reference in these sections to a “police officer”, a “police officer of a police department”, a “police officer of the police department” or a “respondent” were a reference to an instructing officer;
- (b) each reference in these sections to a “chief officer”, a “chief officer of a police department” or a “chief officer of the police department” were a reference to the Director; and
- (c) each reference in these sections to “the offices or station of the police department” were a reference to the offices of the Atlantic Police Academy. *2006,c.16,s.22.*

**23. Form and submission**

- (1) A person who wishes to make a complaint under this Act in respect of the conduct of a police officer of a police department shall make the complaint to the chief officer of the police department by
- (a) stating the complaint in writing and including therein the grounds for the complaint;
  - (b) signing the complaint; and
  - (c) delivering the complaint to the chief officer at the offices or station of the police department.

**Notice of receipt of complaint**

- (2) Within 15 days after the day that a complaint is delivered to a chief officer, the chief officer shall cause
- (a) a written notice indicating that the chief officer has received the complaint to be served on the complainant; and
  - (b) a copy of the complaint to be served on the respondent. *2006,c.16,s.23.*

**24. Withdrawal of complaint**

- (1) Subject to subsection (3), a complainant may, at any time after making a complaint to a chief officer of a police department, withdraw the complaint by delivering a written notice of withdrawal that is signed by the complainant, to the chief officer at the offices or station of the police department.

**Notice of withdrawal**

- (2) The chief officer of a police department shall, promptly after a written notice of withdrawal is delivered to the chief officer, cause a copy of the notice to be served on the respondent.



**Restriction**

- (3) After a chief officer has commenced disciplinary proceedings under subsection 27(4) against the respondent to a complaint, the complainant may not withdraw the complaint without the consent of the chief officer.

**Refusal to consent and notice**

- (4) Where the chief officer refuses to consent to the withdrawal of a complaint, the chief officer shall cause a written notice of the refusal to be served on the parties to the complaint within 15 days after the day the complainant delivered a notice of withdrawal to the chief officer.  
*2006, c.16, s.24.*

**25. Late complaints**

- (1) Where the chief officer of a police department decides that a complaint made in respect of the conduct of a police officer of the police department is made more than six months after the facts on which it is based occurred, the chief officer shall dismiss the complaint.

**Complainant not directly affected**

- (2) Where, after a complaint is made to the chief officer of a police department, the chief officer determines that the complainant is not directly affected by the conduct of a police officer of the police department that is the subject of the complaint, the chief officer may dismiss the complaint.

**Notice**

- (3) Where the chief officer of a police department
- (a) decides under subsection (1) that a complaint is made more than six months after the facts on which it is based occurred; or
  - (b) decides to dismiss a complaint under subsection (1) or (2),
- the chief officer shall, promptly after making that decision, cause a written notice to be served on the parties to the complaint that advises them of
- (c) the decision and the reasons therefor; and
  - (d) the complainant's right to request, within 30 days after the day the notice is received by the complainant, the Police Commissioner to review the decision under section 28.

**Delay of complaint where criminal proceedings**

- (4) Where, before or after a complaint is made to the chief officer of a police department, criminal proceedings have been commenced in respect of the conduct that is the subject of the complaint, the chief officer may delay his or her consideration of the complaint, or any action he or she may take in respect of the complaint, under this Part until
- (a) the criminal proceedings have been completed; and
  - (b) any right of appeal in respect of those proceedings has been exhausted or has expired.

**Notice**

- (5) The chief officer of a police department shall, promptly after deciding to delay dealing with a complaint under subsection (4), cause a written notice to be served on the parties to the complaint that advises them of that decision. *2006, c.16, s.25; 2008, c.57, s.12.*

**26. Service of copy of complaint and appointment of an investigator**

After a complaint is made to a chief officer of a police department about the conduct of a police officer of the police department, the chief officer shall, subject to subsections 25(1), (2) and (4), promptly

- (a) designate another police officer of the police department to conduct an investigation of the complaint; or
- (b) ask the chief officer of another police service to designate a member of that police service to conduct an investigation of the complaint. *2006, c.16, s.26.*

**27. Investigation**

- (1) Within 90 days of being designated to conduct an investigation, or within such longer period as may be determined by the chief officer of the respondent, an investigator shall
  - (a) carry out an investigation into the alleged conduct of the respondent that is the subject of the complaint; and
  - (b) submit a written report of his or her findings to the chief officer of the respondent.

**Dismissal of complaint**

- (2) Where, after reviewing an investigator's report, the chief officer decides that the complaint is unsubstantiated, or that the complaint is trivial, frivolous, vexatious, unfounded, or made in bad faith, the chief officer shall dismiss the complaint.

**Complaint not about serious breach of Code - informal resolution**

- (3) Where, after reviewing an investigator's report, the chief officer decides that the respondent's conduct may constitute a breach of the Code, but the chief officer is satisfied that it is not of a serious nature, the chief officer may
  - (a) resolve the complaint informally, if the parties to the complaint agree that the matter is not of a serious nature and consent in writing to the proposed resolution;
  - (b) dismiss the complaint if, in the opinion of the chief officer, the complainant has refused to accept a fair and reasonable resolution of the complaint proposed by the chief officer; or
  - (c) initiate such disciplinary proceedings as the chief officer considers appropriate against the respondent in respect of the conduct that is the subject matter of the complaint.

**Complaint about serious breach of the Code**

- (4) Where, after reviewing an investigator's report, the chief officer decides that the respondent's conduct may constitute a serious breach of the Code, the chief officer shall initiate such disciplinary proceedings against the respondent as the chief officer considers appropriate in respect of the breach of the Code.

**Rules for conduct of disciplinary proceeding**

- (5) The chief officer may, for the purposes of any disciplinary proceeding initiated under clause (3)(c) or subsection (4), make or adopt such rules for the conduct of the disciplinary proceeding as the chief officer considers appropriate.

**Attendance and representation at proceeding**

- (6) Repealed by *2008, c.57, s.13.*



**Evidence**

- (7) Repealed by 2008, c.57, s.13.

**Decision to impose disciplinary penalty**

- (8) Where, after the conclusion of a disciplinary proceeding initiated under clause (3)(c) or subsection (4), the chief officer of a police department finds that the respondent has breached the Code, the chief officer may impose any such disciplinary penalty on the respondent as may be imposed under the Code in respect of the breach.

**Decision, notice**

- (9) Where the chief officer of a police department
- (a) decides to dismiss a complaint under subsection (2) or clause (3)(b); or
  - (b) after conducting a disciplinary proceeding, decides under subsection (8),
    - (i) that the respondent to a complaint has breached the Code, and
    - (ii) to impose a disciplinary penalty on the respondent,
- the chief officer shall, as soon as possible after making the decision, cause the parties to the complaint to be served with
- (c) a written copy of his or her decision, together with the reasons for the decision; and
  - (d) a written notice of
    - (i) the right of the complainant under subsection 28(2) to request the Police Commissioner to review the decision, if the decision is one referred to in clause (a), or
    - (ii) the right of either party under subsection 28(3) to request the Police Commissioner to review the decision, if the decision is one referred to in clause (b). 2006, c.16, s.27; 2008, c.57, s.13.

**28. Review of dismissal of complaint**

- (1) Where a complainant is notified under subsection 25(3) that his or her complaint has been dismissed by the chief officer under subsection 25(1) or (2), the complainant may, within 30 days after the day the notice is served on the complainant, request the Police Commissioner to review the decision.

***Idem***

- (2) Where a complainant is notified under subsection 27(9) that his or her complaint has been dismissed by the chief officer under subsection 27(2) or clause 27(3)(b), the complainant may, within 30 days after the day the notice is served on the complainant, request the Police Commissioner to review the decision and the complaint.

**Review of disciplinary decision**

- (3) Where a party to a complaint is notified under subsection 27(9) that the chief officer has under subsection 27(8)
- (a) determined that the respondent has breached the Code; and
  - (b) imposed a disciplinary penalty on the respondent in respect of the breach,
- and the party is aggrieved by either decision or by both decisions, the party may, within 30 days after the day the notice is served on the party, request the Police Commissioner to review the decision or decisions and the complaint.

**Request for review - requirements**

- (4) A person who wishes to make a request under subsection (1), (2) or (3) for a review of a decision of a chief officer concerning a complaint shall make the request to the Police Commissioner by
- (a) stating the request in writing and including therein the grounds for the request;
  - (b) signing the request; and
  - (c) delivering the request to the Manager at the office of the Police Commissioner.

**Notice from the Police Commissioner**

- (5) The Manager shall, within 15 days after the day a request for a review of a decision of a chief officer concerning a complaint is delivered to the Manager in accordance with this section, cause
- (a) a notice of the receipt of the request for the review to be served on the party who made the request to the Manager; and
  - (b) a copy of the request for a review to be served on the other party to the complaint and on the chief officer at the offices or station of the police department.

**Chief officer to provide documentation**

- (6) The chief officer shall, within 15 days after the day the chief officer is served with a copy of a request for a review of a decision of the chief officer concerning a complaint, provide to the Manager
- (a) a copy of the complaint;
  - (b) a copy of any report of an investigator that was submitted to the chief officer in respect of the complaint;
  - (c) a record of the disciplinary proceedings, if any, conducted by the chief officer in respect of the complaint;
  - (d) a copy of the decision of the chief officer that is the subject of the request for a review; and
  - (e) such other documents or things under the control of the chief officer as are relevant to the decision and the complaint.

**Submission in reply to request for a review**

- (7) A party who is served with a copy of a notice of a request for a review may, within 15 days after the day the party is served with the copy of the request, serve on the Manager, at the office of the Police Commissioner, a written submission in reply, and if the party does so, the Manager shall promptly thereafter cause a copy of the submission to be served on the party requesting the review. *2006,c.16,s.28; 2008,c.57,s.14.*

**29. Referral to investigator**

- (1) The Manager shall refer any request made under section 28 for a review of a decision and a complaint to an investigator and may, for greater certainty, refer such a request to himself or herself for review in his or her capacity as an investigator.

**Duties of investigator**

- (2) Where the Manager, under subsection (1), refers a request for a review of a decision and a complaint to an investigator, whether the investigator is the Manager or another investigator, the investigator shall
- (a) review





- (i) the decision, the request for the review, and the complaint,
- (ii) the documents and records of the chief officer that are provided to the Manager in accordance with subsection 28(6), and
- (iii) any submission in reply to the request for a review filed under subsection 28(7) by the other party to the complaint;
- (b) carry out such investigation as he or she considers appropriate to determine,
  - (i) in the case of a request under subsection 28(1) or (2) for a review of a decision to dismiss a complaint, whether it was appropriate to dismiss the complaint, or
  - (ii) in the case of a request under subsection 28(3) for a review of a decision concerning the respondent's conduct, whether the respondent's conduct constituted a breach of the Code or whether the disciplinary penalty imposed in respect of that conduct was appropriate, or both, as may be relevant; and
- (c) attempt to informally resolve the complaint to the satisfaction of both parties.

**Dismissal or referral**

- (3) After attempting to informally resolve the complaint in respect of which
  - (a) a request is made for a review of a decision made under subsection 28(1) or (2) to dismiss the complaint; or
  - (b) a request is made under subsection 28(3) for a review of a decision concerning the respondent's conduct,

the investigator shall,

- (c) in the case of a request by the complainant,
  - (i) dismiss the request and the complaint where, in the opinion of the investigator,
    - (A) the decision was appropriate, or
    - (B) the decision was not appropriate, but the complainant has refused to accept a fair and reasonable resolution of the complaint proposed by the investigator, or
  - (ii) refer the request and complaint to the Police Commissioner for a hearing; and
- (d) in the case of a request by the respondent,
  - (i) dismiss the request where, in the opinion of the investigator,
    - (A) the decision was appropriate, or
    - (B) the decision was not appropriate, but the respondent has refused to accept a fair and reasonable resolution of the complaint proposed by the investigator, or
  - (ii) refer the request and complaint to the Police Commissioner for a hearing.

**Report on resolution to Police Commissioner**

- (4) Where the investigator, pursuant to subsection (2), informally resolves the complaint in respect of which a request has been made to the satisfaction of both parties to the complaint, the investigator shall, as soon as possible after the resolution, submit a written report to the Police Commissioner setting out the manner of the final disposition of the complaint.

**Notice of dismissal to Police Commissioner**

- (5) Where the investigator, pursuant to subsection (3), dismisses the request and complaint of the complainant, or the request of the respondent, the investigator shall, as soon as possible after the dismissal, submit a written notice of the dismissal to the Police Commissioner.

**Notice of referral to Police Commissioner**

- (6) Where the investigator, pursuant to subsection (3), decides to refer a request and complaint to the Police Commissioner, the investigator shall make the referral by submitting a written notice to the Police Commissioner. *2006, c.16, s.29; 2008, c.57, s.15.*

**30. Inadmissibility of statements of a party**

- (1) Any statement or admission of a party to a complaint that is made to an investigator during the course of an investigation, or an attempt to informally resolve a complaint, conducted pursuant to subsection 29(2), shall not be used or receivable in evidence at any subsequent criminal, civil or administrative proceeding except with the consent of the party who made the statement or admission.

**Idem**

- (2) An investigator shall not give evidence, or produce any documents or things under his or her control, in respect of any investigation, or attempt to informally resolve a complaint, that the investigator conducted pursuant to subsection 29(2) at any subsequent criminal, civil or administrative proceeding. *2006, c.16, s.30.*

**31. Where complaint resolved**

- (1) Where a complaint is informally resolved by an investigator pursuant to subsection 29(2) to the satisfaction of both parties to the complaint, the investigator shall cause a notice of the manner of the final disposition to be served on the parties and the chief officer.

**Where complaint not resolved**

- (2) Where the investigator, pursuant to subsection 29(3), dismisses the request and complaint of the complainant, or the request of the respondent, the investigator shall promptly cause a written notice to be served on the parties to the complaint that advises them of the dismissal and the reasons therefor.

**Where complaint referred**

- (3) Where the investigator, pursuant to subsection 29(3), refers a request and complaint to the Police Commissioner for a hearing, the investigator shall promptly cause a written notice to be served on the parties to the complaint and the chief officer that advises them of the referral. *2006, c.16, s.31; 2008, c.57, s.16.*

**32. Hearing**

- (1) Where an investigator under subsection 29(3) refers a request and complaint to the Police Commissioner for a hearing, the Police Commissioner shall, as soon as possible after the referral, conduct a hearing in respect of the request and complaint.

**Hearing open to the public**

- (2) A hearing conducted by the Police Commissioner under this section shall be open to the public unless the Police Commissioner is of the opinion that it is in the best interests of the



public, the maintenance of order or the proper administration of justice to exclude members of the public for all or part of the proceedings.

**Ban on publication of identity of party**

- (3) The Police Commissioner may make an order directing that the identity of a complainant, a respondent or any witness and any information that could disclose the identity of the complainant, respondent, or witness not be published in a document or broadcast in any way.

**Contravention of order**

- (4) No person shall fail to comply with an order of the Police Commissioner made under subsection (3).

**Parties to hearing**

- (5) At a hearing conducted by the Police Commissioner
- (a) the complainant;
  - (b) the respondent;
  - (c) the chief officer of the police department, or the chief officer's delegate;
  - (d) any person who can demonstrate a personal interest in the proceedings; and
  - (e) the Minister,
- are entitled to
- (f) appear and be heard;
  - (g) be represented by counsel or another agent, including a union representative;
  - (h) be allowed to examine any physical or documentary evidence that will be produced or given in evidence; and
  - (i) call witnesses and examine or cross-examine all witnesses.

**Hearing *de novo***

- (6) A hearing conducted by the Police Commissioner shall be a hearing *de novo*.

**Costs - responsibility**

- (7) Unless the Police Commissioner orders otherwise under subsection (8), each person referred to in clauses (5)(a) to (e) is responsible for the costs incurred by the person in respect of the hearing.

**Responsibility for costs assumed by employer**

- (7.1) Notwithstanding subsection (7), where the conduct of a respondent that is the subject of a complaint occurred while the respondent was acting in good faith and in the execution of his or her duties, the employer of the respondent shall assume responsibility for the costs incurred by the respondent in respect of a hearing under this section.

**Decision**

- (8) The Police Commissioner shall, within 20 days after the day that a hearing is completed, make a decision in respect of the matter and
- (a) may decide to
    - (i) dismiss the request and the complaint,
    - (ii) overturn any decision of the chief officer to dismiss the complaint, find the respondent in breach of the Code and impose a disciplinary penalty on the respondent for the breach in accordance with the Code,

- (iii) overturn any decision of the chief officer that the respondent breached the Code and find that the respondent did not breach the Code, or
  - (iv) vary, in accordance with the Code, any disciplinary penalty imposed on the respondent by the chief officer; and
- (b) may order a party to the complaint to pay the costs incurred by the other party.

**Decision in writing with reasons**

- (9) A decision of the Police Commissioner made under subsection (8)
- (a) must be in writing and must include the reasons therefor; and
  - (b) shall be served, within 15 days after the day that the decision was made by the Police Commissioner, on the parties and on the chief officer of the respondent at the offices or station of the police department.

**Certified copy of decision**

- (10) The Police Commissioner shall, for the purpose of ensuring that any decision of the Police Commissioner under subsection (8) in respect of costs is enforceable in the same manner as an order of the Supreme Court, provide a certified copy of the decision to
- (a) the party awarded costs; and
  - (b) the Prothonotary.

**Enforcement of decision**

- (11) The Prothonotary shall, on receipt of the certified copy of a decision referred to in subsection (10), enter the same as a record, and the decision shall thereupon be enforceable in the same manner as an order or judgment of the Supreme Court. *2006,c.16,s.32; 2008,c.57,s.17; 2008,c.20,s.72(72).*

**33. Decision final and binding**

- (1) Subject to subsection (2), a decision of the Police Commissioner under subsection 32(8) is final and binding on the parties to the complaint.

**Appeal on a question of law**

- (2) A party to a complaint may appeal a decision of the Police Commissioner under subsection 32(8) to a judge of the Supreme Court on any question of law by filing a notice of appeal, within 30 days after the day the party is served with the decision, with the Registrar of the Supreme Court.

**Notice of appeal**

- (3) A notice of appeal filed under subsection (2) shall set out the grounds for the appeal and shall be served on the Police Commissioner and on the other party to the complaint. *2006,c.16,s.33; 2008,c.57,s.18; 2008,c.20,s.72(72).*

**PART VIII — COMPLAINTS CONCERNING CHIEF OFFICERS, THE DIRECTOR AND SECURITY POLICE OFFICERS**

**34. Definitions**

In this Part,

- (a) “**complainant**” means the person who has submitted a complaint under this Part concerning the conduct of a chief officer, the Director, or a security police officer;



- (b) “**respondent**” means
  - (i) in the case of a complaint concerning a chief officer, the chief officer who is the subject of the complaint,
  - (ii) in the case of a complaint concerning the conduct of the Director, the Director of the Atlantic Police Academy, and
  - (iii) in the case of a complaint concerning a security police officer, the security police officer who is the subject of the complaint;
- (c) “**party**” means, in respect of a complaint, the complainant or the respondent.  
*2006, c.16, s.34; 2008, c.57, s.20.*

### 35. Complaints

- (1) Subject to this Part, any person may make a complaint about the conduct of
  - (a) the chief officer of a police department;
  - (b) a security police officer, if the security police officer is employed by
    - (i) the University of Prince Edward Island, or
    - (ii) an employer of a class or type prescribed by the regulations for the purposes of this subsection; or
  - (c) the Director,

if the person has reasonable grounds for believing that the conduct of the chief officer, security police officer, or Director, as the case may be, constitutes a breach of the Code.

#### Persons who may make complaint

- (2) A person may make a complaint under this Part concerning the conduct of a chief officer, a security police officer or the Director only if the person was directly affected by that conduct and if the complaint is made within 6 months after the facts on which it is based occurred.

#### Exception where person is a minor

- (3) Where a person directly affected by the conduct and if the complaint is made within 6 months after the facts on which it is based occurred that is of concern is a minor, a parent or guardian of the minor may make a complaint on the minor’s behalf and, for the purposes of this Part, is deemed to be directly affected by the conduct that is the subject of the complaint.

#### Exception where person is mentally incompetent

- (4) Where a person directly affected by the conduct that is of concern is mentally incompetent, a parent or guardian of that person may make a complaint on the person’s behalf and, for the purposes of this Part, is deemed to be directly affected by the conduct that is the subject of the complaint.

#### Persons who may not make a complaint

- (5) A complaint may not be made under this Part by
  - (a) a member of a police department;
  - (b) a chief officer of a police department;
  - (c) the Police Commissioner;
  - (d) an instructing officer;
  - (e) the Director; or
  - (f) a security police officer.

**Other complaints not precluded**

- (6) For greater certainty, nothing in this Part precludes any person from making a complaint in any manner or at any time other than as required or permitted under this Part to
- (a) a council concerning the conduct of a chief officer;
  - (b) the President of Holland College concerning the conduct of the Director; or
  - (c) the employer of a security police officer concerning the conduct of the security police officer,

but such a complaint shall not be considered to be a complaint that has been made under this Part. *2006, c.16, s.35; 2008, c.57, s.21.*

**36. Complaints concerning the Director or a security police officer**

Sections 37 to 44 shall be interpreted and applied in respect of complaints concerning the conduct of the Director or a security police officer as if

- (a) each reference in these sections to a “chief officer”, a “chief officer of a police department” or a “respondent” were a reference to the Director or a security police officer, as may be appropriate;
- (b) each reference in these sections to the “council responsible for the police department of which the respondent is a member” were a reference,
  - (i) in the case of a complaint against the Director, to the President of Holland College, and
  - (ii) in the case of a complaint against a security police officer, to the employer of the security police officer; and
- (c) each reference in these sections to “the offices or station of the police department of the respondent” were a reference,
  - (i) in the case of a complaint against the Director, to the office of the President of Holland College, and
  - (ii) in the case of a complaint against a security police officer, to the office of the employer of the security police officer. *2006, c.16, s.36; 2008, c.57, s.22.*

**37. Form and submission**

- (1) A person who wishes to make a complaint under this Act in respect of the conduct of a chief officer of a police department shall make the complaint to the Police Commissioner by
- (a) stating the complaint in writing and including therein the grounds for the complaint;
  - (b) signing the complaint; and
  - (c) delivering the complaint to the Manager at the office of the Police Commissioner.

**Notice of receipt of complaint**

- (2) Within 15 days after the day that a complaint is delivered to the Manager, the Manager shall cause
- (a) written notice indicating that the Manager has received the complaint to be served on the complainant; and
  - (b) a copy of the complaint to be served on the respondent. *2006, c.16, s.37; 2008, c.57, s.23.*



**38. Withdrawal of complaint**

- (1) Subject to subsection (3), a complainant may, at any time after making a complaint to the Manager, withdraw the complaint by delivering a written notice of withdrawal that is signed by the complainant, to the Manager at the office of the Police Commissioner.

**Notice of withdrawal**

- (2) The Manager shall, promptly after a written notice of withdrawal is delivered to the Manager, cause a copy of the notice to be served on the respondent.

**Restriction**

- (3) After the Manager has caused an investigation to be commenced under section 40 in respect of a complaint, the complainant may not withdraw the complaint without the consent of the Manager.

**Refusal to consent and notice**

- (4) Where the Manager refuses to consent to the withdrawal of a complaint, the Manager shall cause a written notice of the refusal to be served on the parties to the complaint within 30 days after the day the complainant delivered a written notice of withdrawal to the Manager. *2006, c.16, s.38; 2008, c.57, s.24.*

**39. Late complaints**

- (1) Where the Manager decides that a complaint made in respect of the conduct of a chief officer is made more than six months after the facts on which it is based occurred, the Manager shall dismiss the complaint.

**Complainant not directly affected**

- (2) Where, after a complaint is made to the Manager, the Manager determines that the complainant is not directly affected by the conduct of the chief officer that is the subject of the complaint, the Manager may dismiss the complaint.

**Notice**

- (3) Where the Manager
- (a) decides under subsection (1) that a complaint is made more than six months after the facts on which it is based occurred; or
  - (b) decides to dismiss a complaint under subsection (2),
- the Manager shall, promptly after making that decision, cause a written notice to be served on the parties to the complaint that advises them of the decision and the reasons therefor.

**Delay of complaint where criminal proceedings**

- (4) Where, before or after a complaint is made to the Manager, criminal proceedings have been commenced in respect of the conduct that is the subject of the complaint, the Manager may delay his or her consideration of the complaint, or any action he or she may take in respect of the complaint, under this Part until
- (a) the criminal proceedings have been completed; and
  - (b) any right of appeal in respect of those proceedings has been exhausted or has expired.

**Notice**

- (5) Where the Manager decides to delay dealing with a complaint under subsection (4), the Manager shall promptly cause a written notice to be served on the parties to the complaint that advises them of that decision.

**Service of notice on respondent**

- (6) A copy of a complaint or a notice that is required to be served on the respondent under subsections 37(2), 38(2) or (4), or 39(3) or (5) shall be served on the respondent at the offices or station of the police department of the respondent. *2006, c.16, s.39; 2008, c.57, s.25.*

**40. Service of copy of complaint and appointment of an investigator**

- (1) After a complaint is made to the Manager about the conduct of a chief officer, the Manager shall, subject to subsections 39(1), (2) and (4), refer the complaint to an investigator and may, for greater certainty, refer the complaint to himself or herself for review and investigation.

**Duties of investigator**

- (2) Where the Manager refers a complaint to an investigator under subsection (1), the investigator shall
- (a) review the complaint;
  - (b) carry out an investigation into the complaint to determine whether the chief officer's conduct constituted a breach of the Code; and
  - (c) attempt to informally resolve the complaint to the satisfaction of both parties.

**Where complaint without merit**

- (3) If the complaint has not been informally resolved by the investigator, the investigator shall dismiss the complaint if, in the opinion of the investigator,
- (a) the complaint is trivial, frivolous, vexatious, unfounded, or made in bad faith; or
  - (b) the complainant has refused to accept a fair and reasonable resolution of the complaint proposed by the investigator.

**Written report to Police Commissioner**

- (4) Where the investigator
- (a) has informally resolved the complaint;
  - (b) has dismissed the complaint; or
  - (c) is satisfied that the complaint cannot be informally resolved or dismissed and has decided to refer the complaint to the Police Commissioner for a hearing,

the investigator shall, as soon as possible after resolving or dismissing the complaint, or deciding to refer the complaint, submit a written report to the Police Commissioner setting out

- (d) if the complaint is resolved, the manner of the final disposition;
- (e) if the complaint has been dismissed, a notice of the dismissal; or
- (f) if the investigator has decided to refer the complaint to the Police Commissioner for a hearing, a notice of that referral.

**Report on resolution to parties**

- (5) Where the investigator, pursuant to subsection (2), informally resolves the complaint to the satisfaction of both parties to the complaint, the investigator shall, as soon as possible after the resolution, cause a written report to be served on the parties setting out the manner of the final disposition of the complaint.





**Written notice to parties**

- (6) Where the investigator has dismissed a complaint under subsection (3), the investigator shall promptly cause a written notice to be served on the parties to the complaint that advises them of the dismissal and the reasons therefor.

**Where complaint referred**

- (7) Where the investigator refers a complaint under subsection (4) to the Police Commissioner for a hearing, the investigator shall promptly cause a written notice to be served on the parties to the complaint that advises them of the referral. *2006, c.16, s.40; 2008, c.57, s.26.*

**41. Inadmissibility of statements of a party**

- (1) Any statement or admission of a party to the complaint that is made to an investigator during the course of an investigation or an attempt to informally resolve a complaint, conducted pursuant to subsection 40(2), shall not be used or receivable in evidence at any subsequent criminal, civil or administrative proceeding in respect of the complaint except with the consent of the party who made the statement or admission.

**Idem**

- (2) An investigator shall not give evidence, or produce any documents or things under his or her control, in respect of any investigation or attempt to informally resolve the complaint, conducted pursuant to subsection 40(2), at any subsequent criminal, civil or administrative proceeding in respect of the complaint. *2006, c.16, s.41.*

**42. Where complaint resolved**

Where a complaint is informally resolved by an investigator to the satisfaction of both parties to a complaint, the investigator shall cause a notice of the manner of the final disposition to be served on

- (a) the parties; and  
(b) the council responsible for the police department of which the respondent is a member. *2006, c.16, s.42; 2008, c.57, s.27.*

**43. Hearing**

- (1) Where, pursuant to subsection 40(4), an investigator submits to the Police Commissioner a written report in which the investigator sets out a notice that he or she is referring a complaint to the Police Commissioner for a hearing, the Police Commissioner shall, as soon as possible after receipt of the report, conduct a hearing in respect of the complaint.

**Hearing into complaint**

- (2) A hearing conducted by the Police Commissioner under this section shall be open to the public unless the Police Commissioner is of the opinion that it is in the best interests of the public, the maintenance of order or the proper administration of justice to exclude members of the public for all or part of the proceedings.

**Ban on publication of identity of party**

- (3) The Police Commissioner may make an order directing that the identity of a complainant, respondent or witness and any information that could disclose the identity of the complainant, respondent, or witness not be published in a document or broadcast in any way.

**Contravention of order**

- (4) No person shall fail to comply with an order of the Police Commissioner made under subsection (3).

**Parties to proceeding**

- (5) At a hearing conducted by the Police Commissioner,
- (a) the complainant;
  - (b) the respondent;
  - (c) the council responsible for the police department of which the respondent is a member;
  - (d) any person who can demonstrate a personal interest in the proceedings; and
  - (e) the Minister,
- are entitled to
- (f) appear and be heard;
  - (g) be represented by counsel or another agent, including a union representative where the respondent is a special constable;
  - (h) be provided with reasonable information concerning the matter and allowed to examine any physical or documentary evidence that will be produced or given in evidence; and
  - (i) call witnesses and examine or cross-examine all witnesses.

**Hearing *de novo***

- (6) A hearing conducted by the Police Commissioner shall be a hearing *de novo*.

**Costs - responsibility**

- (7) Unless the Police Commissioner orders otherwise under subsection (8), each person referred to in clauses (5)(a) to (e) is responsible for the costs incurred by the person in respect of the proceeding.

**Responsibility for costs assumed by employer**

- (7.1) Notwithstanding subsection (7), where the conduct of a respondent that is the subject of a complaint occurred while the respondent was acting in good faith and in the execution of his or her duties, the employer of the respondent shall assume responsibility for the costs incurred by the respondent in respect of a hearing under this section.

**Decision**

- (8) The Police Commissioner shall, within 20 days after the day that a hearing is completed, make a decision in respect of the matter and
- (a) may decide to
    - (i) dismiss the complaint, if in the opinion of the Police Commissioner, the respondent did not breach the Code, or
    - (ii) impose a disciplinary penalty on the respondent if
      - (A) in the opinion of the Police Commissioner, the respondent has breached the Code, and
      - (B) the disciplinary penalty is one that may be imposed under the Code for the breach; and
  - (b) may order a party to the complaint to pay the costs incurred by the other party.



**Decision in writing with reasons**

- (9) A decision of the Police Commissioner made under subsection (8)
- (a) must be in writing and must include the reasons therefor; and
  - (b) shall be served, within 15 days after the day that the decision was made by the Police Commissioner, on the parties and the council responsible for the police department of which the respondent is a member.

**Certified copy of decision**

- (10) The Police Commissioner shall, for the purpose of ensuring that any decision of the Police Commissioner under subsection (8) in respect of costs is enforceable in the same manner as an order of the Supreme Court, provide a certified copy of the decision to
- (a) the party awarded costs; and
  - (b) the Prothonotary.

**Enforcement of decision**

- (11) The Prothonotary shall, on receipt of the certified copy of a decision referred to in subsection (10), enter the same as a record, and the decision shall thereupon be enforceable in the same manner as an order or judgment of the Supreme Court.

**Service of notice on respondent**

- (12) A copy of a notice or a decision that is required to be served on the respondent under subsection 40(4), section 42 or subsection 43(9) shall be served on the respondent at the offices or station of the police department of the respondent. *2006,c.16,s.43; 2008,c.57,s.28; 2008,c.20,s.72(72).*

**44. Decision final and binding**

- (1) Subject to subsection (2), a decision of the Police Commissioner under subsection 43(8) is final and binding on the parties to the complaint.

**Appeal on a question of law**

- (2) A party to a complaint may appeal a decision of the Police Commissioner under subsection 43(8) to a judge of the Supreme Court on any question of law by filing a notice of appeal, within 30 days after the day the party is served with the decision, with the Registrar of the Supreme Court.

**Notice of appeal**

- (3) A notice of appeal filed under subsection (2) shall set out the grounds for the appeal and shall be served on the Police Commissioner and on the other party to the complaint. *2006,c.16,s.44; 2008,c.57,s.29; 2008,c.20,s.72(72).*

**PART IX — AUXILIARY CONSTABLES****45. Auxiliary constables -appointment**

- (1) A chief officer of a police service may
- (a) appoint persons as auxiliary constables to assist the members of the police service in the performance of their duties; and
  - (b) attach conditions to the appointment of an auxiliary constable, including ones that
    - (i) establish the territorial jurisdiction and duties of the auxiliary constable, and

- (ii) impose restrictions on the powers and authority of the auxiliary constable.

**Written appointment**

- (2) The appointment of an auxiliary constable shall
- (a) be in writing; and
  - (b) specify any conditions that are attached to the appointment and the term of the appointment.

**Qualifications**

- (3) No person shall be appointed as an auxiliary constable unless the person has the qualifications, including training, required by the regulations.

**Expiry**

- (4) The term of an appointment of an auxiliary constable expires on the date specified in the appointment, unless the chief officer revokes the appointment as of an earlier date.

**Oath or affirmation**

- (5) Every auxiliary constable shall, before commencing the performance of his or her duties as an auxiliary constable, take the oath, or solemn affirmation, of office as prescribed by the regulations.

**Identification card**

- (6) The chief officer of a police service shall ensure that an identification card containing the information required by the regulations is issued to an auxiliary constable before the auxiliary constable commences the performance of his or her duties.

**Proof**

- (7) A copy of an identification card of an auxiliary constable that purports to be signed by the chief officer of a police service is proof that the individual named therein is an auxiliary constable appointed to assist the members of the police service in the performance of their duties.

**Production of identification card**

- (8) An auxiliary constable shall, on demand by any person, produce his or her identification card for inspection.

**Powers**

- (9) Subject to subsection (10), an auxiliary constable has
- (a) all of the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or provincial enactment; and
  - (b) the power and authority to enforce and to act under every enactment of the province.

**Power to act - regulations and supervision**

- (10) An auxiliary constable
- (a) shall act in accordance with any restrictions or requirements established by the regulations and any conditions attached to his or her appointment; and
  - (b) shall not act unless accompanied by and under the direct supervision of a member of the police service that he or she is appointed to assist.



**Idem**

- (11) Where an auxiliary constable is appointed to assist the members of a police service, the chief officer of the police service shall ensure that the auxiliary constable does not act as an auxiliary constable unless the auxiliary constable is accompanied by and under the direct supervision of a member of the police service that the auxiliary constable is appointed to assist.

**Certificate of appointment**

- (12) A certificate purporting to be issued and signed by a chief officer of a police service to the effect that the person to whom it is issued is an auxiliary constable appointed under this Act is, without proof of the chief officer's appointment, authority or signature, admissible in evidence and is, in the absence of evidence to the contrary, proof of the facts stated therein.

**Liability for actions of an auxiliary constable**

- (13) Where an auxiliary constable is appointed by a chief officer of a police department, the municipality responsible for the police department is liable for the actions of the auxiliary constable while the auxiliary constable is exercising the powers or performing the duties of an auxiliary constable.

**Auxiliary constables not to be used to eliminate police officer positions**

- (14) The chief officer of a police department shall ensure that auxiliary constables and police cadets are not used to replace any members of the police department or to reduce the number of positions occupied by members of the police department.

**Commission of offence**

- (15) An auxiliary constable who is charged with an offence under a provincial enactment shall not be convicted if it is made to appear to the judge before whom the offence is being prosecuted that the auxiliary constable
- (a) committed the offence while discharging his or her responsibilities;
  - (b) was reasonably justified in committing the offence having regard to the responsibility being discharged; and
  - (c) conducted himself or herself in a reasonable manner having regard to all of the circumstances.

**Liability**

- (16) No action or other proceeding for damages lies or shall be instituted against an auxiliary officer for anything done by the auxiliary officer in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for any neglect or default of the auxiliary officer in the performance or exercise in good faith of any such duty or power. *2006, c.16, s.45; 2008, c.57, s.30.*

**PART X — SECURITY POLICE OFFICERS****46. Appointment**

- (1) The Minister may
- (a) appoint persons as security police officers; and
  - (b) attach conditions to the appointment of a security police officer, including ones that
    - (i) establish the territorial jurisdiction and duties of the security police officer, and

- (ii) impose restrictions on the powers and authority of the security police officer.

**Written appointment**

- (2) The appointment of a security police officer shall
  - (a) be in writing; and
  - (b) specify any conditions that are attached to the appointment and the term of the appointment.

**Qualifications**

- (3) No person shall be appointed by the Minister as a security police officer unless the Minister
  - (a) is satisfied that the person
    - (i) has the qualifications, including training, education and experience, required by the regulations, and
    - (ii) is employed by an employer of a class or type prescribed by the regulations for the purposes of this subsection; or
  - (b) is satisfied that
    - (i) the person is a member of a police force of another jurisdiction, and
    - (ii) it is appropriate to appoint the person as such an officer.

**Expiry**

- (4) The term of an appointment of a security police officer expires on the date specified in the appointment, unless the Minister revokes the appointment as of an earlier date.

**Oath or affirmation**

- (5) Every security police officer shall, before commencing the performance of his or her duties as a security police officer, take the oath, or solemn affirmation, of office as prescribed by the regulations.

**Identification card**

- (6) The Minister shall, where practicable, cause an identification card containing the information required by the regulations to be issued to a security police officer after the appointment of the security police officer and before he or she undertakes his or duties.

**Proof**

- (7) A copy of an identification card of a security police officer that purports to be signed by the Minister is proof the individual named therein is a security police officer.

**Production of identification card**

- (8) A security police officer shall, on demand by any person, produce his or her identification card for inspection, unless in the opinion of the security police officer it would be dangerous for the security police officer to comply with the demand.

**Peace officer**

- (9) Subject to the conditions attached to his or her appointment, a security police officer is a peace officer and has
  - (a) all of the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or provincial enactment; and
  - (b) the power and authority to enforce and to act under every enactment of the province.



**Responsibility of employer**

- (10) The employer of a security police officer is responsible for ensuring that the security police officer
- (a) acts in accordance with the requirements of this Act and the regulations and the conditions of the security police officer's appointment; and
  - (b) exercises the power and authority conferred by this Act and the appointment in a proper manner.

**Idem**

- (11) The employer of a security police officer is liable for the actions of the security police officer while the security police officer is exercising the powers or performing the duties of a security police officer.

**Notice required**

- (12) A security police officer appointed under clause 3(b) who is exercising the powers and performing the duties of a security police officer in respect of the *Criminal Code* (Canada) in a municipality or area of the province shall, as soon as it is practicable after his or her appointment, notify the police service that provides policing services for that municipality or area of the province of the purpose for which those powers and duties have been given to the security police officer.

**Certificate of appointment**

- (13) A certificate purporting to be issued and signed by the Minister to the effect that the person to whom it is issued is a security police officer appointed under this Act is, without proof of the Minister's appointment, authority or signature, admissible in evidence and is in the absence of evidence to the contrary, proof of the facts stated therein.

**Code - compliance**

- (14) Every security police officer shall carry out his or her duties, and exercise his or her powers, authorities and rights under this Act in a manner consistent with the Code.

**In-service training courses**

- (15) The employer of a security police officer shall ensure that the security police officer is provided, when required by the regulations or by any directive, standard or guideline issued to the employer by the Minister under subsection 3(3), with an opportunity to take courses, areas or types of training prescribed by the regulations or set out in such a directive, standard or guideline.

**Commission of offence**

- (16) A security police officer who is charged with an offence under a provincial enactment shall not be convicted if it is made to appear to the judge before whom the offence is being prosecuted that the security police officer
- (a) committed the offence while discharging his or her responsibilities;
  - (b) was reasonably justified in committing the offence having regard to the responsibility being discharged; and
  - (c) conducted himself or herself in a reasonable manner having regard to all of the circumstances.

**Liability**

- (17) No action or other proceeding for damages lies or shall be instituted against a security police officer for anything done by the security police officer in good faith in the performance or

intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for any neglect or default of the security police officer in the performance or exercise in good faith of any such duty or power. *2006, c.16, s.46; 2008, c.57, s.32*

## PART XI — ATLANTIC POLICE ACADEMY

### 47. Director – appointment, qualifications

- (1) No person shall be appointed as the Director of the Atlantic Police Academy unless the person has the qualifications, including training, education and experience, required by the regulations.

#### Oath or affirmation

- (2) The Director shall before commencing in the performance of his or her duties, take the oath, or solemn affirmation, of office as prescribed in the regulations. *2006, c.16, s.47.*

### 48. Instructing officers-appointment

- (1) The Director may appoint persons as instructing officers.

#### Writing

- (2) The appointment of an instructing officer shall be in writing.

#### Qualifications

- (3) No person shall be appointed as an instructing officer under subsection (1) unless the person has the qualifications, including training, education and experience, required by the regulations.

#### Oath or affirmation

- (4) An instructing officer shall, before commencing in the performance of his or her duties, take the oath, or solemn affirmation, of office as prescribed in the regulations.

#### Identification card

- (5) The Director shall ensure that an identification card containing the information required by the regulations is issued to a person who is appointed as an instructing officer before that person commences in the performance of his or her duties.

#### Idem

- (6) A copy of an identification card purporting to be signed by the Director is proof that the individual named therein is an instructing officer.

#### Production of identification card

- (7) An instructing officer shall, on demand by any person, produce his or her identification card for inspection.

#### Certificate of appointment

- (8) A certificate purporting to be issued and signed by the Director to the effect that the person to whom it is issued is an instructing officer appointed under this Act is, without proof of the Director's appointment, authority or signature, admissible in evidence and is, in the absence of evidence to the contrary, proof of the facts stated therein. *2006, c.16, s.48.*





**49. Code - compliance**

- (1) The Director and each instructing officer shall carry out his or her duties, and exercise his or her powers, authorities and rights, under this Act in a manner consistent with the Code.

**Application**

- (2) For greater certainty, the Code applies in respect of
- (a) any disciplinary proceeding involving an instructing officer that is conducted under this Act in respect of a complaint; and
  - (b) any other disciplinary proceeding involving an instructing officer that is conducted internally by the Atlantic Police Academy outside of this Act, whether that proceeding is governed by a collective agreement that is binding on the instructing officer or not. *2006, c.16, s.49.*

**50. Police cadets**

- (1) The Director may
- (a) appoint persons as police cadets; and
  - (b) attach conditions to the appointment of a police cadet, including ones that
    - (i) establish the territorial jurisdiction and duties of the police cadet, and
    - (ii) impose restrictions on the powers and authority of the police cadet.

**Written appointment**

- (2) The appointment of a police cadet shall
- (a) be in writing; and
  - (b) specify any conditions that are attached to the appointment and the term of the appointment.

**Qualifications**

- (3) No person shall be appointed as a police cadet unless the person has the qualifications required by the regulations.

**Expiry**

- (4) The term of an appointment of a police cadet expires on the date specified in the appointment, unless the Director revokes the appointment as of an earlier date.

**Oath or affirmation**

- (5) Every police cadet shall, before commencing the performance of his or her duties as a police cadet, take the oath, or solemn affirmation, of office as prescribed by the regulations.

**Identification card**

- (6) The Director shall ensure that an identification card containing the information required by the regulations is issued to a police cadet before the police cadet commences the performance of his or her duties.

**Proof**

- (7) A copy of an identification card of a police cadet that purports to be signed by the Director is proof that the individual named therein is a police cadet.

**Production of identification card**

- (8) A police cadet shall, on demand by any person, produce his or her identification card for inspection.

**Powers**

- (9) Subject to subsection (10), a police cadet is a peace officer and has
- (a) all of the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or provincial enactment; and
  - (b) the power and authority to enforce and to act under every enactment of the province.

**Power to act- regulations and supervision**

- (10) A police cadet
- (a) shall act in accordance with any restrictions or requirements established by the regulations and any conditions attached to his or her appointment;
  - (b) may assist, and participate in training programs with, members of a police service; and
  - (c) shall not act unless accompanied by and under the direct supervision of
    - (i) a member of a police service, or
    - (ii) an instructing officer or the Director.

**Idem**

- (11) The Director shall ensure that the police cadet does not act as a police cadet unless the police cadet is accompanied by and under the direct supervision of
- (a) a member of a police service; or
  - (b) an instructing officer or the Director.

**Certificate of appointment**

- (12) A certificate purporting to be issued and signed by the Director to the effect that the person to whom it is issued is a police cadet appointed under this Act is, without proof of the Director's appointment, authority or signature, admissible in evidence and is, in the absence of evidence to the contrary, proof of the facts stated therein.

**Liability for actions of a police cadet**

- (13) Where a police cadet is appointed by the Director, Holland College is liable for the actions of the police cadet while the police cadet is exercising the powers or performing the duties of a police cadet.

**Commission of offence**

- (14) A police cadet who is charged with an offence under a provincial enactment shall not be convicted if it is made to appear to the judge before whom the offence is being prosecuted that the police cadet
- (a) committed the offence while discharging his or her responsibilities;
  - (b) was reasonably justified in committing the offence having regard to the responsibility being discharged; and
  - (c) conducted himself or herself in a reasonable manner having regard to all of the circumstances.



**Liability**

- (15) No action or other proceeding for damages lies or shall be instituted against a police cadet for anything done by the police cadet in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for any neglect or default of the police cadet in the performance or exercise in good faith of any such duty or power. *2006, c.16, s.50; 2008, c.57, s.33.*

**51. Civilian instructors**

- (1) The Director may
- (a) appoint persons as civilian instructors; and
  - (b) attach conditions to the appointment of a civilian instructor, including ones that
    - (i) establish the territorial jurisdiction and duties of the civilian instructor, and
    - (ii) impose restrictions on the powers and authority of the civilian instructor.

**Written appointment**

- (2) The appointment of a civilian instructor shall
- (a) be in writing; and
  - (b) specify any conditions that are attached to the appointment and the term of the appointment.

**Qualifications**

- (3) No person shall be appointed as a civilian instructor unless the person has the qualifications required by the regulations.

**Expiry**

- (4) The term of an appointment of a civilian instructor expires on the date specified in the appointment, unless the Director revokes the appointment as of an earlier date.

**Oath or affirmation**

- (5) Every civilian instructor shall, before commencing the performance of his or her duties as a civilian instructor, take the oath, or solemn affirmation, of office as prescribed by the regulations.

**Identification card**

- (6) The Director shall ensure that an identification card containing the information required by the regulations is issued to a civilian instructor before the civilian instructor commences the performance of his or her duties.

**Proof**

- (7) A copy of an identification card of a civilian instructor that purports to be signed by the Director is proof that the individual named therein is a civilian instructor.

**Production of identification card**

- (8) A civilian instructor shall, on demand by any person, produce his or her identification card for inspection.

**Powers**

- (9) Subject to subsection (10), a civilian instructor is a peace officer and has

- (a) all of the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or provincial enactment; and
- (b) the power and authority to enforce and to act under every enactment of the province.

**Power to act - regulations and supervision**

- (10) A civilian instructor
- (a) shall act in accordance with any restrictions or requirements established by the regulations and any conditions attached to his or her appointment;
  - (b) may assist members of a police service; and
  - (c) shall not act unless accompanied by and under the direct supervision of
    - (i) a member of a police service, or
    - (ii) an instructing officer or the Director.

**Idem**

- (11) The Director shall ensure that a civilian instructor does not act as a civilian instructor unless the civilian instructor is accompanied by and under the direct supervision of
- (a) a member of a police service; or
  - (b) an instructing officer or the Director.

**Certificate of appointment**

- (12) A certificate purporting to be issued and signed by the Director to the effect that the person to whom it is issued is a civilian instructor appointed under this Act is, without proof of the Director's appointment, authority or signature, admissible in evidence and is, in the absence of evidence to the contrary, proof of the facts stated therein.

**Liability for actions of a civilian instructor**

- (13) Where a civilian instructor is appointed by the Director, Holland College is liable for the actions of the civilian instructor while the civilian instructor is exercising the powers or performing the duties of a civilian instructor.

**Commission of offence**

- (14) A civilian instructor who is charged with an offence under a provincial enactment shall not be convicted if it is made to appear to the judge before whom the offence is being prosecuted that the civilian instructor
- (a) committed the offence while discharging his or her responsibilities;
  - (b) was reasonably justified in committing the offence having regard to the responsibility being discharged; and
  - (c) conducted himself or herself in a reasonable manner having regard to all of the circumstances.

**Liability**

- (15) No action or other proceeding for damages lies or shall be instituted against a civilian instructor for anything done by the civilian instructor in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for any neglect or default of the civilian instructor in the performance or exercise in good faith of any such duty or power. *2006, c.16, s.51; 2008, c.57, s.34.*



**52. Register**

- (1) The Director of the Atlantic Police Academy shall ensure that a register is kept of all persons who are appointed by the Director as instructing officers, police cadets and civilian instructors in which is recorded
- (a) the name of each instructing officer, police cadet and civilian instructor;
  - (b) the date of the appointment of each instructing officer, police cadet and civilian instructor and the date of any revocation or suspension of the appointment;
  - (c) the date of birth of each instructing officer, police cadet and civilian instructor; and
  - (d) the qualifications required by the regulations of each instructing officer, police cadet and civilian instructor as of the date of his or her appointment.

**Annual report**

- (2) The Director shall, within three months after the end of each calendar year, file with the Minister an annual report for the preceding calendar year which includes the information and documents required by the regulations.

**In-service training courses**

- (3) The Director shall ensure that the instructing officers are provided, when required by the regulations or by any directive, standard or guideline issued to the Atlantic Police Academy by the Minister under subsection 3(3), with an opportunity to take courses, areas or types of training prescribed by the regulations or set out in such a directive, standard or guideline. *2006, c.16, s.52; 2008, c.57, s.35.*

**PART XII — GENERAL****53. Liability protection for persons acting under this Act**

No action or other proceeding for damages lies or shall be instituted against

- (a) the Minister;
- (b) the Police Commissioner or the Deputy Police Commissioner;
- (c) an investigator appointed by the Minister under section 4 or employed or hired by the Police Commissioner under subsection 17(2); or
- (d) any person assisting, acting for or under the direction of any person referred to in clauses (a), (b) or (c),

for anything done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act, or for any neglect or default in the performance or exercise in good faith of any such duty or power. *2006, c.16, s.53.*

**54. Service or delivery**

- (1) Any notice, decision or other document required by this Act to be served on or delivered to any person may be served on or delivered to that person
- (a) personally;
  - (b) by telephone transmission of a facsimile addressed to the person and sent to
    - (i) the telephone facsimile number of the person's office or station, in the case where service or delivery is required to be made to the person at his or her office or station, or
    - (ii) his or her last known telephone facsimile number, in all other cases; or

- (c) by regular letter mail addressed to the person and sent to
  - (i) the person's office or station, in the case where service or delivery is required to be made to the person at his or her office or station, or
  - (ii) his or her last known address, in all other cases.

**Date service effected**

- (2) A notice, decision or other document that is served on or delivered to any person by regular letter mail shall be deemed to be served on or delivered to that person on the day that is 10 days after the day it is sent by regular letter mail to that person, unless that person establishes, that through no fault of his or her own, he or she did not in fact receive it.

**Idem**

- (3) A notice, decision or other document that is served on or delivered to any person by telephone transmission of a facsimile shall be deemed to be served on or delivered to that person on the day after the day it is sent by telephone transmission of a facsimile to that person, unless that person establishes that through no fault of his or her own, he or she did not in fact receive it. *2006, c.16, s.54; 2008, c.57, s.36.*

**55. Holding out as a police officer**

- (1) No person shall
  - (a) hold out that the person is a police officer; or
  - (b) display the word "police" either alone, as part of a word or in conjunction with any other words, on a uniform, an insignia, a vehicle marking or another sign or symbol where the display of the word "police" might mislead the public or a member of the public into believing that the person displaying the word or causing the word to be displayed is a member of a police service, or is empowered to exercise the powers of a police officer or powers that are similar to the powers of a police officer

unless the person is

- (c) appointed under this Act as
  - (i) a member of a police service,
  - (ii) a security police officer, or
  - (iii) an instructing officer, police cadet or civilian instructor;
- (d) the Director; or
- (e) appointed as a police officer pursuant to an Act of the Parliament of Canada.

**Use of insignia – order to cease**

- (2) Where the Minister is of the opinion that the uniform, insignia, vehicle markings or other signs or symbols employed by a person or organization are so similar to those used by a police service that the public or a member of the public might be misled, the Minister may, by order in writing served on that person or organization require the person or organization to cease using the uniform, insignia, vehicle markings or other signs or symbols.

**Contravenes an order**

- (3) No person shall fail to comply with an order of the Minister made under subsection (2) that has been served on that person. *2006, c.16, s.55; 2008, c.57, s.37.*

**56. Obstruction or false statement**

No person shall



- (a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an investigator, the Commissioner or the Deputy Commissioner in the exercise of his or her functions under this Act or the regulations; or
- (b) knowingly make a false statement to, or mislead or attempt to mislead, an investigator, the Police Commissioner or the Deputy Police Commissioner in the performance of his or her functions under this Act or the regulations. *2006, c.16, s.56.*

### **57. Offences and penalties**

- (1) A person who contravenes subsection 32(4) or 43(4), or section 55 or 56 is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for six months or to both.

#### **Continuing offences**

- (2) In addition to a fine imposed under subsection (1), the court may impose a fine not exceeding \$5,000 for each day during which the offence continues. *2006, c.16, s.57.*

### **58. Regulations**

Lieutenant Governor in Council may make regulations

- (a) respecting the Provincial Police Service;
- (b) prescribing the forms of oaths, and solemn affirmations, of office for the purposes of subsections 6(5), 10(2), 45(5), 46(5), 47(2), 48(4), 50(5) and 51(5);
- (c) respecting the content of identification cards for the purposes of subsections 10(3), 45(6), 46(6), 48(5), 50(6) and 51(6);
- (d) respecting the qualifications required for the appointment of persons, in a permanent capacity, as the chief officers or deputy chief officers of police departments;
- (e) respecting the information and documents required to be included in the annual reports that are submitted to the Minister by the chief officers of police departments;
- (f) respecting the qualifications required for the appointment of persons, in a permanent or temporary capacity, as police officers;
- (f.1) prescribing courses, areas or types of training for police officers, as defined in section 15, and security police officers for the purposes of subsections 10(9), 46(15), and 52(3);
- (f.2) respecting the use of force by the members of a police service in the performance of their duties, including requiring the police service to adopt and the members of a police service to comply with a specified use of force model developed by a police force or police association;
- (f.3) respecting the use of force by the Director and instructing officers of the Atlantic Police Academy in the performance of their duties, including requiring the Atlantic Police Academy to adopt and the Director and instructing officers to comply with a specified use of force model developed by a police force or police association;
- (f.4) respecting the use of force by security police officers in the performance of their duties, including requiring the employer of security police officers to adopt and the security police officers to comply with a specified use of force model developed by a police force or police association;
- (g) respecting the qualifications required for the appointment of a person as the Police Commissioner or the Deputy Police Commissioner;

- (g.1) respecting the qualifications required for an investigator employed or hired by the Police Commissioner under section 17;
- (h) respecting the functions, powers or duties of the Police Commissioner or the Deputy Police Commissioner;
- (i) respecting the qualifications required for the appointment of persons as auxiliary constables;
- (j) governing auxiliary constables in the performance of their duties and the exercise of their powers, including the restriction or prohibition of
  - (i) the use of force by auxiliary constables, and
  - (ii) the use or possession of firearms or other weapons or equipment by auxiliary constables;
- (k) prescribing the classes or types of employers of security police officers for the purposes of clause 35(1)(b);
- (l) prescribing classes or types of employers of security police officers for the purposes of clause 46(3)(a);
- (m) respecting the qualifications required for the appointment of persons as security police officers;
- (n) respecting the qualifications required for the appointment of a person as the Director;
- (o) respecting the information and documents required to be included in the annual reports that are submitted to the Minister by the Director;
- (p) respecting the qualifications required for the appointment of persons as instructing officers, police cadets and civilian instructors;
- (q) governing police cadets and civilian instructors in the performance of their duties and the exercise of their powers, including the restriction or prohibition of
  - (i) the use of force by police cadets and civilian instructors, and
  - (ii) the use or possession of firearms or other weapons or equipment by police cadets and civilian instructors;
- (r) prescribing a uniform Code of Professional Conduct and Discipline for members of police departments, security police officers, instructing officers and the Director for the purposes of
  - (i) providing a general guide for such persons in the performance of their duties and the exercise of their powers,
  - (ii) establishing the conduct that constitutes a breach of the Code and that may be the subject of a complaint under this Act or under any internal disciplinary proceeding referred to in clause 14(2)(b) or 49(2)(b), and
  - (iii) establishing guidelines for police departments and the Police Commissioner concerning appropriate disciplinary penalties;
- (s) respecting the fees and expenses that are payable to witnesses summoned by the Police Commissioner under subsection 18(2);
- (t) defining any word or term used in this Act that is not defined;
- (u) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purposes of this Act. *2006, c.16, s.58; 2008, c.57, s.38.*





## TRANSITIONAL PROVISIONS

### 59. Deemed appointment of police officers of police departments

- (1) Every person who, immediately before the day this section comes into force, is employed as a police officer of a police department shall be deemed, for the purposes of this Act, to have been appointed under subsection 10(1) of this Act
  - (a) in a permanent capacity as a police officer of the police department, if the person is employed in that capacity immediately before the day this section comes into force; or
  - (b) in a temporary capacity as a police officer of the police department, if the person is employed in that capacity immediately before the day this section comes into force.

#### Application of provisions respecting qualifications and oaths

- (2) For greater certainty, subsection 10(2) and section 11 do not apply to any person referred to in subsection (1).

#### Deemed appointment of chief officers of police departments

- (3) Every person who, immediately before the day this section comes into force, is employed as the chief officer of a police department shall be deemed, for the purposes of this Act, to have been appointed under subsection 9(1) of this Act
  - (a) in a permanent capacity as the chief officer of the police department, if the person is employed in that capacity immediately before the day this section comes into force; or
  - (b) in a temporary capacity as the chief officer of the police department, if the person is employed in that capacity immediately before the day this section comes into force.

#### Application of provisions respecting qualifications, terms and oaths

- (4) For greater certainty, subsections 9(2) and (3) and 10(2) do not apply to any person referred to in subsection (3).

#### Duration of temporary appointments

- (5) For greater certainty, the appointment of every person who is deemed, under subsection (1) or (3), to have been appointed in a temporary capacity as a police officer or the chief officer of a police department under subsection 9(1) or 10(1), shall be deemed to expire as of the day the person's employment in that capacity expires according to the relevant terms and conditions of the person's employment that are in effect immediately before the day this section comes into force, unless the appointment is sooner revoked under this Act.

#### No termination of employment or powers

- (6) For greater certainty, nothing in this section or in sections 64 or 65 shall be construed
  - (a) to terminate the employment of a person referred to in subsection (1) or (3) as a police officer or the chief officer, as the case may be, of a police department; or
  - (b) to discontinue or interrupt the powers, authority, privileges, rights and immunities of a person referred to in subsection (1) or (3) as a police officer or the chief officer, as the case may be, of a police department.

#### Duties of chief officers

- (7) The chief officer of a police department shall ensure that the register required to be kept by subsection 10(6) includes, for each person who is deemed under subsection (1) to have been appointed as a police officer of the police department,

- (a) the information required by subsection 10(6), and, for greater certainty, the date of appointment for each such person shall be the day this section comes into force; and
- (b) the number of years that the person has been employed as a police officer of the police department prior to the day this section comes into force.

**Deemed appointment of security police officers employed at UPEI**

- (8) Every person who, immediately before the day this section comes into force, is employed by the University of Prince Edward Island as a security police officer shall be deemed, for the purposes of this Act, to have been appointed under subsection 46(1) of this Act
  - (a) in a permanent capacity as a security police officer, if the person is employed in a permanent capacity as a security police officer of the University of Prince Edward Island immediately before the day this section comes into force; or
  - (b) in a temporary capacity as a security police officer, if the person is employed in a temporary capacity as a security police officer of the University of Prince Edward Island immediately before the day this section comes into force.

**Application of provisions respecting qualifications and oaths**

- (9) For greater certainty, subsections 46(3) and 46(5) do not apply to any person referred to in subsection (8).

**Deemed duration of temporary appointments**

- (10) For greater certainty, the appointment of every person who is deemed, under subsection (8), to have been appointed in a temporary capacity as a security police officer employed by the University of Prince Edward Island under subsection 46(1), shall be deemed to expire as of the day the person's employment in that capacity expires according to the relevant terms and conditions of the person's employment that are in effect immediately before the day this section comes into force, unless the appointment is sooner revoked under this Act.

**No termination of employment or powers**

- (11) For greater certainty, nothing in this section or in sections 64 or 65 shall be construed
  - (a) to terminate the employment of a person referred to in subsection (8) as a security police officer of the University of Prince Edward Island; and
  - (b) to discontinue or interrupt the powers, authority, privileges, rights and immunities of a person referred to in subsection (8) as a security police officer of the University of Prince Edward Island. *2006, c.16, s.59; 2008, c.57, s.39.*

**60. Qualifications of Director**

For greater certainty, section 47 does not apply to any person who, immediately before the day this section comes into force, is the Director. *2006, c.16, s.60.*

**61. Inquiry under former Act to continue**

Where an inquiry into the conduct of any police officer or police constable has been commenced under section 3 of the former Act before the day this section comes into force, and that inquiry has not been completed before the day this section comes into force, that inquiry shall continue to be dealt with in accordance with the former Act and its regulations as they read immediately before the day this section comes into force. *2006, c.16, s.61.*



**62. Complaints - restriction re conduct prior to commencement of Act**

- (1) Notwithstanding anything to the contrary in this Act, no complaint may be made under this Act in respect of the conduct of a person who is member of a police department, an instructing officer, the Director or a security police officer if the conduct that is the subject matter of the complaint occurred before the day this section comes into force.

**Complaints may continue to be dealt with outside this Act**

- (2) Subsection (1) shall not be construed to preclude
- (a) a person from making a complaint in respect of any conduct of a person who is a member of a police department, an instructing officer, the Director or a security police officer that occurred before the day this section comes into force; or
  - (b) the holding of discipline proceedings in respect of that complaint,
- if the complaint is made, and the discipline proceedings are held, outside of the processes established by this Act, whether under a collective agreement or pursuant to the policies or rules of a police department or other employer of the person against whom the complaint is made. *2006,c.16,s.62; 2008,c.57,s.40.*

**CONSEQUENTIAL AMENDMENTS**

- 63. (1) - (14) (These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.)** *2006,c.16,s.63.*

**64. Revocation of prior appointments under former Act**

All appointments made under the former Act are hereby revoked and shall cease to have effect on the day this section comes into force. *2006,c.16,s.64.*

**65. Repeal**

The *Police Act* R.S.P.E.I. 1988, Cap. P-11 is repealed. *2006,c.16,s.65.*