

POLICE ACT

CHAPTER 367

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[Transitional section included for convenience]

Part 1 -- Definitions

Definitions

1 In this Act:

"auxiliary constable" means a constable appointed under section 8 (1);

"board" means,

(a) in relation to a municipal police department, a municipal police board,

(b) in relation to a designated policing unit, the designated board established for that designated policing unit, and

(c) in relation to a designated law enforcement unit, the designated board established for that designated law enforcement unit;

"bylaw enforcement officer" means a bylaw enforcement officer appointed under section 36;

"chief constable" means the chief constable of a municipal police department;

"chief officer" means a chief officer appointed under section 4.2 (2) (c) (iv) (A) or 18.2 (d) (iii) (A);

"commissioner" means the commissioner of the provincial police force;

"committee" means a local police committee established under section 31;

"designated board" means a board established under section 4.1 (7) or 18.1 (7);

"designated constable" means a constable appointed under section 4.1 (11);

"designated law enforcement unit" means a designated law enforcement unit established under section 18.1 (7);

"designated policing unit" means a designated policing unit established under section 4.1 (7);

"director" means the Director of Police Services, Ministry of Attorney General;

"enforcement officer" means an enforcement officer appointed under section 18.1 (11);

"entity" means any of the following:

(a) a municipality;

- (b) a regional district;
- (c) a government corporation;
- (d) any other prescribed entity;

"government corporation" means government corporation as defined in the *Financial Administration Act*;

"municipal constable" means a constable appointed under section 26;

"municipal police board" means a municipal police board established under section 23;

"municipal police department" means a municipal police department established under section 26;

"municipality" includes the City of Vancouver, but does not include a regional or improvement district;

"officer", except in section 47 (2), means a person appointed under this Act as a provincial constable, special provincial constable, designated constable, municipal constable, special municipal constable, auxiliary constable or enforcement officer, but does not include a person who is a member of the Royal Canadian Mounted Police;

"police complaint commissioner" means the police complaint commissioner appointed under section 47 (1) or 49 (1);

"provincial constable" means a constable who is a member of the provincial police force continued under section 5, or who is appointed a constable under section 6;

"provincial police force" means the provincial police force continued under section 5;

"special municipal constable" means a constable appointed under section 35;

"special provincial constable" means a constable appointed under section 9.

Police forces in British Columbia

1.1 The following are police forces in British Columbia:

- (a) the provincial police force;
- (b) a municipal police department;
- (c) if prescribed by the minister as a police force, a designated policing unit.

Part 2 -- The Minister

Adequate level of policing and law enforcement

2 The minister must ensure that an adequate and effective level of policing and law enforcement is maintained throughout British Columbia.

Responsibilities of Provincial and municipal governments for providing policing and law enforcement services

3 (1) The government must provide policing and law enforcement services for the following:

- (a) unincorporated areas of British Columbia;
- (b) municipalities with a population of up to 5 000 persons;
- (c) municipalities with a population of more than 5 000 persons that contract with the minister to engage the provincial police force to act as the municipal police department in their municipalities.

(2) A municipality with a population of more than 5 000 persons must provide policing and law enforcement in accordance with this Act and the regulations by means of one of the following:

- (a) establishing a municipal police department;
- (b) entering into an agreement with the minister under which policing and law enforcement in the municipality will be provided by the provincial police force;
- (c) with the approval of the minister, entering into an agreement with another municipality that has a municipal police department under which policing and law enforcement in the municipality will be provided by the municipal police department of that municipality.

(3) An agreement under subsection (2) (b) or (c) must contain terms that the Lieutenant Governor in Council approves.

Minister may provide policing and law enforcement

4 (1) Despite section 3, if the minister considers that it is necessary or desirable, the minister may, on terms approved by the Lieutenant Governor in Council, provide or reorganize the policing and law enforcement

- (a) in a municipality to which section 3 (2) applies, or
- (b) in an area or region of British Columbia.

(2) Costs incurred by the government under subsection (1) (a) are a debt due to and recoverable by the government from the municipality.

Designated policing

4.1 (1) In this section and section 4.2:

"designated policing" means policing and law enforcement provided in place of or supplemental to the policing and law enforcement otherwise provided by the provincial police force or a municipal police department;

"entity" does not include a municipality with a population of more than 5 000 persons.

(2) Subject to this section and despite section 3, on application by an entity, the minister may establish, on behalf of the entity, a designated policing unit to provide designated policing.

(3) Subject to subsection (4), an application under subsection (2) must include the following:

(a) a description of all policing and law enforcement services to be provided by the designated policing unit on behalf of the entity, including a description of the geographical area within which the services are to be provided;

(b) a description of the qualifications required of the designated constables of the designated policing unit;

(c) a description of the governance of the designated policing unit, including

(i) the identification or proposed establishment of a board whose function it will be to govern, administer and operate the designated policing unit, and

(ii) the proposed membership of the board referred to in subparagraph (i);

(d) an explanation as to how the designated policing is to be coordinated with the policing and law enforcement otherwise provided by the provincial police force or municipal police department, as the case may be, in the geographical area within which the designated policing is to be provided;

(e) a written statement endorsing the application, from each of the following persons:

(i) the chief constable of each municipal police department in the geographical area within which the designated policing is to be provided;

(ii) the commissioner, if the designated policing is to be provided in a geographical area within which the provincial police force regularly provides policing and law enforcement;

(f) any other information the minister may require.

(4) If the application referred to in subsection (3) is made by an entity that employs special provincial constables, the minister may waive, at the minister's discretion, one or more of the application requirements under subsection (3) (a) to (e).

(5) The minister may approve an entity's application on any terms the minister may require.

- (6) If the minister and the entity agree on the terms referred to in subsection (5), the minister must forward the application to the Lieutenant Governor in Council for approval.
- (7) If the Lieutenant Governor in Council approves the application, the minister must establish, on behalf of the entity and in accordance with the terms of the application,
- (a) a designated policing unit, and
 - (b) a designated board.
- (8) The designated board referred to in subsection (7) may consist of one or more persons appointed under subsection (9).
- (9) After consulting with the entity, the minister may appoint those persons the minister considers suitable as members of the board, and the minister must appoint one of the members as chair.
- (10) The designated policing unit established under subsection (7) may consist of one or more designated constables appointed under subsection (11).
- (11) Subject to the approval of the minister, the designated board may appoint persons considered suitable as designated constables to perform designated policing.
- (12) A person appointed under subsection (11) is
- (a) appointed for the term specified in the appointment, and
 - (b) subject to the terms of employment determined by the entity.
- (13) Subject to the restrictions specified in the appointment and to the regulations, a person appointed under subsection (11) has the powers, duties and immunities of a provincial constable.
- (14) Costs incurred by the government in establishing a designated policing unit and its board on behalf of an entity are a debt due to and recoverable by the government.

Regulations respecting a designated policing unit

- 4.2** (1) In this section, "**local government**" means the council of a municipality, the board of a regional district or the council of a band under the *Indian Act* (Canada).
- (2) The minister may make regulations respecting a designated policing unit and its board under section 4.1, including, without limitation, the following:
- (a) prescribing the geographical area within which the designated policing unit and its designated constables must operate;
 - (b) prescribing the practices, procedures and quorum of the board;
 - (c) prescribing the powers, duties and functions of the board, including,

(i) a duty to

(A) enforce, within the geographical area prescribed by the minister, the bylaws of the local government of the area, the criminal law and the laws of British Columbia,

(B) generally maintain law and order in the area, and

(C) prevent crime,

(ii) a duty to determine in consultation with the minister and the chief officer, if any, the priorities, goals and objectives of the designated policing unit,

(iii) a duty to report to the minister on

(A) the activities of the designated policing unit, and

(B) the implementation of programs and strategies to achieve the priorities, goals and objectives referred to in subparagraph (ii),

(iv) a power to appoint on behalf of the entity, subject to the minister's approval,

(A) a chief officer who has, under the direction of the board, general supervision and command over the designated constables of the designated policing unit,

(B) a deputy chief officer, and

(C) those designated constables the board considers necessary, and

(v) a duty to make rules consistent with this Act and the regulations respecting the following:

(A) the standards, guidelines and policies for the administration of the designated policing unit;

(B) the prevention of neglect and abuse by the designated constables;

(C) the efficient discharge of duties and functions by the designated policing unit and the designated constables;

(d) prescribing the powers, duties and functions of a person appointed under paragraph

(c) (iv) (A) or (B);

(e) prescribing the conditions of and the qualifications for appointments under paragraph

(c) (iv);

(f) prescribing the standards for training, or for retraining, that a designated constable of the designated policing unit must meet;

(g) prescribing the restrictions, including geographical restrictions, on the powers, duties and functions of a designated constable of the designated policing unit;

(h) respecting accommodation, equipment and supplies for

- (i) the operations of and use by the designated policing unit, and
 - (ii) the detention of persons required to be held in police custody;
- (i) respecting any other matter the minister considers necessary and advisable concerning the designated policing unit and its board.

Provincial police force continued

5 The provincial police force is continued.

Constables and employees

6 (1) The *Public Service Act* does not apply to the provincial police force, a provincial constable, an auxiliary constable, a special provincial constable, a designated constable or an employee of the provincial police force.

(2) The Lieutenant Governor in Council may appoint to the provincial police force the constables and other employees the Lieutenant Governor in Council considers necessary to carry out the force's business.

(3) The Lieutenant Governor in Council may appoint a commissioner and a deputy commissioner of the provincial police force.

(4) The commissioner, deputy commissioner, constables and employees of the provincial police force must be appointed for a term and must be paid the remuneration that the Lieutenant Governor in Council determines.

(5) A person must not be appointed commissioner, deputy commissioner or a constable or employee of the provincial police force unless he or she is a Canadian citizen.

Duties and functions of commissioner and police force

7 (1) The commissioner, under the minister's direction,

(a) has general supervision over the provincial police force, and

(b) must perform the other functions and duties assigned to the commissioner under the regulations or under this or any other Act.

(2) The provincial police force, under the commissioner's direction, must perform the duties and functions respecting the preservation of peace, the prevention of crime and offences against the law and the administration of justice assigned to it or generally to peace officers by the commissioner, under the regulations or under any Act.

Auxiliary constables

8 (1) On the recommendation of the commissioner, the minister may appoint persons the minister considers suitable as auxiliary constables.

(2) An auxiliary constable must assist the provincial police force in the performance of its duties.

(3) Subject to the regulations, an auxiliary constable has the powers, duties and immunities of a provincial constable.

Special provincial constables

9 (1) The minister may appoint persons the minister considers suitable as special provincial constables.

(2) A special provincial constable appointed under subsection (1) is appointed for the term the minister specifies in the appointment.

(3) Subject to the restrictions specified in the appointment and the regulations, a special provincial constable has the powers, duties and immunities of a provincial constable.

Jurisdiction of police constables

10 (1) Subject to the restrictions specified in the appointment and the regulations, a provincial constable, an auxiliary constable, a designated constable or a special provincial constable has, while carrying out the duties of his or her appointment, jurisdiction throughout British Columbia to exercise and carry out the powers, duties, privileges and responsibilities that a police constable or peace officer is entitled or required to exercise or carry out at law or under an enactment.

(2) If a provincial constable, auxiliary constable, designated constable or special provincial constable exercises jurisdiction under subsection (1) in a municipality having a municipal police department, he or she must, if possible, notify the municipal police department in advance, but in any case must promptly after exercising jurisdiction notify the municipal police department of the municipality.

Standards of training

10.1 An officer must meet the standards for training, or for retraining, that are prescribed by the minister for that class of officer.

Ministerial liability

11 (1) The minister, on behalf of the government, is jointly and severally liable for torts committed by

(a) provincial constables, auxiliary constables, special provincial constables and enforcement officers appointed on behalf of a ministry, if the tort is committed in the performance of their duties, and

(b) municipal constables and special municipal constables in the performance of their duties when acting in other than the municipality where they normally perform their duties.

(2) Even though a person referred to in subsection (1) (a) or (b) is not found liable for a tort allegedly committed by the person in the performance of his or her duties, the minister may pay an amount the minister considers necessary to

(a) settle a claim against the person for a tort allegedly committed by the person in the performance of his or her duties, or

(b) reimburse the person for reasonable costs incurred by the person in defending a claim against the person for a tort allegedly committed in the performance of his or her duties.

(3) The Minister of Finance and Corporate Relations must pay out of the consolidated revenue fund, on the requisition of the minister, money required for the purposes of subsection (2).

Assistance for costs of criminal proceedings

12 If

(a) an auxiliary constable, or

(b) a municipal constable or a special municipal constable acting in other than the municipality in which he or she normally performs his or her duties

has been charged with an offence against an enactment of British Columbia, Canada, a municipality or a regional district in connection with the performance of his or her duties, the minister may, to the extent that the minister considers appropriate in the circumstances, pay the costs incurred and not recovered by the auxiliary constable, municipal constable or special municipal constable in the proceedings following or otherwise connected with the charge.

Aid to dependants of auxiliary constables

13 Despite any other Act, the minister may grant pecuniary aid to the spouses or children of auxiliary constables killed or injured in the performance of their duties.

Part 3 -- Agreements to Use R.C.M.P.

Royal Canadian Mounted Police as provincial police force

14 (1) Subject to the approval of the Lieutenant Governor in Council, the minister, on behalf of the government, may enter into, execute and carry out agreements with Canada, or with a department, agency or person on its behalf, authorizing the Royal Canadian Mounted Police to carry out powers and duties of the provincial police force specified in the agreement.

(2) If an agreement is entered into under subsection (1),

(a) the Royal Canadian Mounted Police is, subject to the agreement, deemed to be a provincial police force,

(b) every member of the Royal Canadian Mounted Police is, subject to the agreement, deemed to be a provincial constable,

(c) the provisions of this Act respecting the powers and duties of the provincial police force and provincial constables apply, subject to the agreement, and with the necessary changes and insofar as applicable, to the Royal Canadian Mounted Police and its members, and

(d) the officer commanding the division of the Royal Canadian Mounted Police referred to in the agreement and the second in command of the division are deemed to be the commissioner and deputy commissioner, respectively, appointed under this Act.

(3) If a power or duty given under the regulations or under any Act to the provincial police force or a provincial constable is expressly excluded from the powers and duties given by agreement under subsection (1) to the Royal Canadian Mounted Police or its members, the Lieutenant Governor in Council may make the regulations the Lieutenant Governor in Council considers necessary to authorize or require a member of the public service of British Columbia to carry out the power or duty.

Part 4 -- Municipalities and Entities

Duties of a municipality

15 (1) Subject to subsection (2), a municipality with a population of more than 5 000 persons must provide, in accordance with this Act and the regulations,

(a) policing and law enforcement in the municipality with a police force or police department of sufficient numbers

(i) to adequately enforce municipal bylaws, the criminal law and the laws of British Columbia, and

(ii) to maintain law and order in the municipality, and

(b) adequate accommodation, equipment and supplies for

(i) the operations of and use by the police force or police department required under paragraph (a), and

(ii) the detention of persons required to be held in police custody other than on behalf of the government.

(2) If, due to special circumstances or abnormal conditions in a municipality, the minister believes it is unreasonable to require a municipality to provide policing or law enforcement under subsection (1), the minister may provide policing or law enforcement in the municipality, subject to the terms the Lieutenant Governor in Council approves.

Municipal policing and law enforcement by R.C.M.P.

16 If, under an agreement made under section 3 (2) (b), members of the Royal Canadian Mounted Police provide policing and law enforcement in a municipality, the municipality must

(a) pay to the government, or

(b) on the direction of the minister, pay directly to Canada

a sum equal to that payable by the government to Canada respecting the use of those members of the Royal Canadian Mounted Police used to provide policing and law enforcement in the municipality.

Failure of municipality to police

17 (1) If the director considers that a municipality to which section 15 (1) applies is not complying with that section, the director must send to it and to its board, if any, a notice that

(a) identifies the non-compliance,

(b) directs the municipality to correct the failure to comply, and

(c) specifies the manner in which and the time within which the failure is to be corrected.

(2) On being notified by the director that a notice sent under subsection (1) has not been complied with, the minister may, on terms the minister considers appropriate,

(a) appoint persons as constables to police the municipality,

(b) use the provincial police force to police the municipality, or

(c) take other steps the minister considers necessary.

(3) The municipality must pay all costs of policing and law enforcement incurred under subsection (2).

(4) Costs incurred by the government under subsection (2) are a debt due to and recoverable by the government from the municipality.

Failure of entities to comply

17.1 (1) If the director considers that a designated policing unit, its board or its designated constables, or a designated law enforcement unit, its board or its enforcement officers, are not complying with the Act or the regulations, the director must send a notice to the board that

(a) identifies the non-compliance,

(b) identifies the entity on behalf of which the designated policing unit or designated law enforcement unit was established,

(c) directs the entity to correct the failure to comply, and

(d) specifies the manner in which and the time within which the failure is to be corrected.

(2) On being notified by the director that a notice sent under subsection (1) has not been complied with, the minister may, on terms the minister considers appropriate, do one or more of the following:

(a) appoint one or more officers as necessary to provide the policing or law enforcement in place of the designated policing unit's designated constables or the designated law enforcement unit's enforcement officers, as the case may be;

(b) use the provincial police force to provide the necessary policing or law enforcement in place of the designated policing unit's designated constables or the designated law enforcement unit's enforcement officers, as the case may be;

(c) take other steps the minister considers necessary.

(3) The entity referred to in subsection (1) must pay all costs of policing and law enforcement incurred under subsection (2).

(4) Costs incurred by the government under subsection (2) are a debt due to and recoverable by the government from the entity referred to in subsection (1).

Amalgamation of municipal police departments

18 (1) Subject to the minister's approval, the councils of 2 or more municipalities may enter into an agreement providing for the amalgamation of their municipal police boards and municipal police departments.

(2) Subject to the minister's approval, the councils of 2 or more municipalities who have entered into an agreement with the minister under section 3 (2) (b) may enter into an agreement providing for the amalgamation of their police departments.

(3) An agreement under subsection (1) must contain terms respecting

(a) a municipal police department and policing and law enforcement by a municipal police department,

(b) the establishment of a joint board and membership on the joint board, and

(c) division of expenditures by the municipal councils.

(4) An agreement under subsection (2) must contain terms respecting

(a) the provision of policing and law enforcement in the municipalities by the provincial police force, and

(b) division of expenditures by the municipal councils.

Enforcement officers for enactments

18.1 (1) In this section and section 18.2, "**designated law enforcement**" means supplemental law enforcement provided to enforce all or any part of one or more enactments of British Columbia or Canada.

(2) Subject to this section, on application by an entity, the minister may establish, on behalf of the entity, a designated law enforcement unit to provide designated law enforcement.

(3) Subject to subsection (4), an application under subsection (2) must include the following:

(a) a description of all law enforcement services to be provided by the designated law enforcement unit, including a list of each enactment of British Columbia or Canada and each part of an enactment of British Columbia or Canada that is to be enforced by enforcement officers of the designated law enforcement unit, and a description of the geographical area within which the law enforcement services are to be provided;

(b) a description of the qualifications required of the enforcement officers of the designated law enforcement unit;

(c) a description of the governance of the designated law enforcement unit, including

(i) the identification or proposed establishment of a board whose function it will be to govern, administer and operate the designated law enforcement unit, and

(ii) the proposed membership of the board referred to in subparagraph (i);

(d) an explanation as to how the services referred to in paragraph (a) are to be coordinated with the policing and law enforcement otherwise provided in the geographical area within which the enforcement officers are to exercise their jurisdiction;

(e) a written statement endorsing the application, from each of the following persons:

(i) the chief constable of each municipal police department in the geographical area within which the designated law enforcement is to be provided;

(ii) the commissioner, if the designated law enforcement is to be provided in a geographical area within which the provincial police force regularly provides policing and law enforcement;

(f) any other information the minister may require.

(4) If the application referred to in subsection (3) is made by an entity that employs special provincial constables, the minister may waive, at the minister's discretion, one or more of the application requirements under subsection (3) (a) to (e).

(5) The minister may approve an entity's application on any terms the minister may require.

(6) If the minister and the entity agree on the terms referred to in subsection (5), the minister must forward the application to the Lieutenant Governor in Council for approval.

(7) If the Lieutenant Governor in Council approves the application, the minister must establish, on behalf of the entity and in accordance with the terms of the application,

(a) a designated law enforcement unit, and

(b) a designated board.

(8) The designated board referred to in subsection (7) may consist of one or more persons appointed under subsection (9).

(9) After consulting with the entity, the minister may appoint those persons the minister considers suitable as members of the board, and the minister must appoint one of the members as chair.

(10) The designated law enforcement unit established under subsection (7) may consist of one or more enforcement officers appointed under subsection (11).

(11) Subject to the approval of the minister, the designated board may appoint one or more of the entity's employees as enforcement officers to enforce those enactments, or parts of enactments, of British Columbia or Canada that the minister prescribes as the enactments to be enforced by the designated law enforcement unit.

(12) A person appointed under subsection (11) is

(a) appointed for the term specified in the appointment, and

(b) subject to the terms of employment determined by the entity.

(13) Subject to the restrictions specified in the appointment and to the regulations, a person appointed under subsection (11) is authorized to exercise the powers and perform the duties, and has the immunities, of a constable or peace officer exclusively for the purpose of enforcing those enactments, or parts of enactments, of British Columbia or Canada that the minister prescribes as the enactments to be enforced by the designated law enforcement unit.

(14) If a person appointed under subsection (11) exercises jurisdiction under subsection (13) in a municipality having a municipal police department, he or she must, if possible, notify the municipal police department in advance, but in any case must promptly after exercising jurisdiction notify the municipal police department of the municipality.

(15) Costs incurred by the government in establishing a designated law enforcement unit and its board on behalf of an entity are a debt due to and recoverable by the government.

Regulations respecting a designated law enforcement unit

18.2 The minister may make regulations respecting a designated law enforcement unit and its board under section 18.1, including, without limitation, the following:

- (a) prescribing each enactment, and each part of an enactment, of British Columbia or Canada that is to be enforced by the designated law enforcement unit;
- (b) prescribing the geographical area within which the designated law enforcement unit and its enforcement officers must operate;
- (c) prescribing the practices, procedures and quorum of the board;
- (d) prescribing the powers, duties and functions of the board, including,
 - (i) a duty to determine in consultation with the minister and the chief officer, if any, the priorities, goals and objectives of the designated law enforcement unit,
 - (ii) a duty to report to the minister on
 - (A) the activities of the designated law enforcement unit, and
 - (B) the implementation of programs and strategies to achieve the priorities, goals and objectives referred to in subparagraph (i),
 - (iii) a power to appoint on behalf of the entity, subject to the minister's approval,
 - (A) a chief officer who has, under the direction of the board, general supervision and command over the enforcement officers of the designated law enforcement unit,
 - (B) a deputy chief officer, and
 - (C) those enforcement officers the board considers necessary, and
 - (iv) a duty to make rules consistent with this Act and the regulations respecting the following:
 - (A) the standards, guidelines and policies for the administration of the designated law enforcement unit;
 - (B) the prevention of neglect and abuse by the enforcement officers;
 - (C) the efficient discharge of duties and functions by the designated law enforcement unit and the enforcement officers;
- (e) prescribing the powers, duties and functions of a person appointed under paragraph (d) (iii) (A) or (B);
- (f) prescribing the conditions of and the qualifications for appointments under paragraph (d) (iii);
- (g) prescribing the standards for training, or for retraining, that an enforcement officer of the designated law enforcement unit must meet;
- (h) prescribing the restrictions, including geographical restrictions, on the powers, duties and functions of an enforcement officer of the designated law enforcement unit;

- (i) respecting accommodation, equipment and supplies for
- (i) the operations of and use by the designated law enforcement unit, and
- (ii) the detention of persons required to be held in police custody;
- (j) respecting any other matter the minister considers necessary and advisable concerning the designated law enforcement unit and its board.

Aid to spouses and children

19 (1) Despite any other Act, a municipal council or board of a regional district may, in its discretion, grant pecuniary aid to the spouses or children of municipal constables, special municipal constables, auxiliary constables, designated constables, enforcement officers or bylaw enforcement officers killed or injured in the performance of their duties.

(2) Despite any other Act, a government corporation or prescribed entity, on behalf of which a designated policing unit or designated law enforcement unit is established, may, in its discretion, grant pecuniary aid to the spouses or children of any of its designated constables or enforcement officers killed or injured in the performance of their duties.

Liability for torts

20 (1) Subject to an agreement under section 18 (1) or 23 (2),

(a) a municipality is jointly and severally liable for a tort that is committed by any of its municipal constables, special municipal constables, designated constables, enforcement officers, bylaw enforcement officers or employees of its municipal police board, if any, if the tort is committed in the performance of that person's duties, and

(b) a regional district, government corporation or other prescribed entity is jointly and severally liable for a tort that is committed by any of its designated constables or enforcement officers, if the tort is committed in the performance of that person's duties.

(2) If it is alleged or established that any municipal constable, special municipal constable, designated constable, enforcement officer, bylaw enforcement officer or employee referred to in subsection (1) has committed a tort in the performance of his or her duties, the respective board and any members of that board are not liable for the claim.

(3) Despite subsection (2), if it is alleged or established that any municipal constable, special municipal constable, designated constable, enforcement officer, bylaw enforcement officer or employee referred to in subsection (1) has committed a tort in the performance of his or her duties, the respective municipality, regional district, government corporation or other prescribed entity on behalf of which that person is employed may, in the discretion of the following, pay an amount that it considers necessary to settle the claim or a judgment against that person and may reimburse him or her for reasonable costs incurred in opposing the claim:

(a) in the case of a municipality, the council of the municipality;

- (b) in the case of a regional district, the board of the regional district;
- (c) in the case of a government corporation or other prescribed entity, that entity itself.

Personal liability

21 (1) In this section, "**police officer**" means a person holding an appointment as a constable under this Act.

(2) No action for damages lies against a police officer or any other person appointed under this Act for anything said or done or omitted to be said or done by him or her in the performance or intended performance of his or her duty or in the exercise of his or her power or for any alleged neglect or default in the performance or intended performance of his or her duty or exercise of his or her power.

(3) Subsection (2) does not provide a defence if

(a) the police officer or other person appointed under this Act has, in relation to the conduct that is the subject matter of action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or

(b) the cause of action is libel or slander.

(4) Subsection (2) does not absolve any of the following, if they would have been liable had this section not been in force, from vicarious liability arising out of a tort committed by the police officer or other person referred to in that subsection:

(a) a municipality, in the case of a tort committed by any of its municipal constables, special municipal constables, designated constables, enforcement officers, bylaw enforcement officers or an employee of its municipal police board, if any;

(b) a regional district, government corporation or prescribed entity, in the case of a tort committed by any of its designated constables or enforcement officers;

(c) the minister, in a case to which section 11 applies.

Municipal assistance for costs of proceedings

22 (1) Despite section 236 of the *Municipal Act*, if a municipality's municipal constable, special municipal constable, designated constable, enforcement officer or bylaw enforcement officer, or if an employee of a municipal police board, has been charged with an offence against an enactment of British Columbia or Canada, or against a municipal or regional district bylaw, in connection with the performance of his or her duties, the council of the municipality may,

(a) on the recommendation of its municipal police board, if the person is an employee of the municipal police board, or

(b) on its own initiative, in any other case,

to the extent that it considers appropriate in the circumstances, pay the costs incurred and not recovered by him or her in the proceedings following or otherwise connected with the charge.

(2) Despite section 236 of the *Municipal Act*, if a regional district's designated constable or enforcement officer has been charged with an offence against an enactment of British Columbia or Canada, or against a municipal or regional district bylaw, in connection with the performance of his or her duties, the board of the regional district may, to the extent that it considers appropriate in the circumstances, pay the costs incurred and not recovered by him or her in the proceedings following or otherwise connected with the charge.

Part 5 -- Municipal Police Boards

Municipal police board

23 (1) Subject to the minister's approval, the council of a municipality required to provide policing and law enforcement under section 15 may provide policing and law enforcement by means of a municipal police department governed by a municipal police board consisting of

(a) the mayor of the council,

(b) one person appointed by the council, and

(c) not more than 5 persons appointed, after consultation with the director, by the Lieutenant Governor in Council.

(2) Subject to the approval of the minister, the councils of 2 or more municipalities may enter into an agreement to establish a joint municipal police board under subsection (1).

(3) An agreement under subsection (2) must contain terms respecting the establishment of the municipal police board, membership on the municipal police board and division of expenditures.

Membership of municipal police board

24 (1) A person who is a councillor or is ineligible to be elected as a councillor must not be appointed to a municipal police board.

(2) A person appointed to a municipal police board under section 23

(a) holds office for a term, not longer than 4 years, that the Lieutenant Governor in Council determines, and

(b) may be reappointed, subject to subsection (3).

(3) A person is not eligible to hold office as an appointed member of a municipal police board for a period greater than 6 consecutive years.

Chair of municipal police board

25 (1) The mayor of a council referred to in section 23 is the chair of the municipal police board.

(2) If the mayor is absent or unable to act, the municipal police board members present at a meeting of the municipal police board must elect from among themselves a chair to preside at the meeting.

(3) In case of a tie vote at a meeting of a municipal police board, the chair may cast the deciding vote.

Board to establish municipal police department

26 (1) A municipal police board must establish a municipal police department and appoint a chief constable and other constables and employees the municipal police board considers necessary to provide policing and law enforcement in the municipality.

(2) The duties and functions of a municipal police department are, under the direction of the municipal police board, to

(a) enforce, in the municipality, municipal bylaws, the criminal law and the laws of British Columbia,

(b) generally maintain law and order in the municipality, and

(c) prevent crime.

(3) Subject to a collective agreement as defined in the *Labour Relations Code*, the chief constable and every constable and employee of a municipal police department must be

(a) employees of the municipal police board,

(b) provided with the accommodation, equipment and supplies the municipal police board considers necessary for his or her duties and functions, and

(c) paid the remuneration the municipal police board determines.

(4) In consultation with the chief constable, the municipal police board must determine the priorities, goals and objectives of the municipal police department.

(5) The chief constable must report to the municipal police board each year on the implementation of programs and strategies to achieve the priorities, goals and objectives.

Estimates and expenditures

27 (1) On or before November 30 in each year, a municipal police board must prepare and submit to the council for its approval a provisional budget for the following year to provide policing and law enforcement in the municipality.

(2) Any changes to the provisional budget under subsection (1) must be submitted to council on or before March 1 of the year to which the provisional budget relates.

(3) If a council does not approve an item in the budget, the director, on application by the council or the municipal police board, must

(a) determine whether the item or amount should be included in the budget, and

(b) report the director's findings to the municipal police board, the council and the minister.

(4) Subject to subsection (3), a council must include in its budget the costs in the provisional budget prepared by the municipal police board.

(5) On certification by the municipal police board members that an expenditure is within the budget prepared by the municipal police board, the council must pay the amount of the expenditure.

(6) Unless the council otherwise approves, a municipal police board must not make an expenditure, or enter an agreement to make an expenditure, that is not specified in the board's budget and approved by the council.

Rules

28 (1) A municipal police board must make rules consistent with this Act and the regulations respecting the following:

(a) the standards, guidelines and policies for the administration of the municipal police department;

(b) the prevention of neglect and abuse by its municipal constables;

(c) the efficient discharge of duties and functions by the municipal police department and the municipal constables.

(2) A rule under subsection (1) is enforceable against any person only after it is filed with the director.

Studies by municipal police board

29 (1) A municipal police board may study, investigate and prepare a report on matters concerning policing, law enforcement and crime prevention in its municipality.

(2) A municipal police board must submit its report of a study under subsection (1),

(a) on request, to the director,

(b) if the report suggests a breach of discipline by any of its municipal constables, special municipal constables or bylaw enforcement officers, to the chief constable, and

(c) if the report suggests criminal liability of any of its municipal constables, special municipal constables or bylaw enforcement officers, to the minister.

Keeping of provincial prisoners

30 Out of money appropriated for the purpose, the minister may make payments to municipalities with a population of more than 5 000 persons in order to reimburse the municipalities to the extent the minister considers appropriate in each case, for the expenses incurred under section 520 of the *Municipal Act* and section 481 of the *Vancouver Charter* for the care and custody of persons who are detained in a place of detention on behalf of the government.

Part 6 -- Police Committees

Local police committees

31 (1) After consulting the councils of municipalities located entirely or partly in the area of British Columbia in which the committee is to have jurisdiction, the Lieutenant Governor in Council may establish a local police committee consisting of not less than 3 members appointed by the Lieutenant Governor in Council.

(2) A member of a committee must be appointed for a term, of not longer than 3 years, that the Lieutenant Governor in Council determines.

(3) A person may be reappointed as a member of a committee but must not hold office for a period of more than 5 successive years.

(4) A member of a committee must not be a judge of a court.

Chair and quorum

32 (1) The Lieutenant Governor in Council may designate one member of a committee as the chair.

(2) In the absence or inability of the chair to act, the other committee members must elect a chair.

(3) A simple majority of the committee constitutes a quorum.

(4) In case of a tie vote, the chair has a second or casting vote.

Duties of committees

33 A committee has the following duties:

(a) to promote a good relationship among

(i) the residents of the area of British Columbia in which the committee has jurisdiction,

(ii) the provincial police force, and

- (iii) any designated policing units or designated law enforcement units that may be operating in that area;
- (b) to bring to the attention of the minister, the provincial police force, the designated policing units and the designated law enforcement units, any matters concerning the adequacy of policing and law enforcement in the area of British Columbia in which the committee has jurisdiction, and to make recommendations on those matters to the minister, the provincial police force, the designated policing units and the designated law enforcement units;
- (c) to perform other duties that the minister may specify.

Part 7 -- Municipal Police Department

Duties and functions of chief constable and municipal police

34 (1) The chief constable of a municipal police department has, under the direction of the municipal police board, general supervision and command over the municipal police department and must perform the other functions and duties assigned to the chief constable under the regulations or under any Act.

(2) The municipal police department, under the chief constable's direction, must perform the duties and functions respecting the preservation of peace, the prevention of crime and offences against the law and the administration of justice assigned to it or generally to peace officers by the chief constable, under the regulations or under any Act.

Special municipal constables

35 (1) After consultation with the chief constable, a municipal police board may appoint persons considered suitable as special municipal constables.

(2) A special municipal constable must assist the municipal police department in the performance of its duties.

(3) Subject to a collective agreement as defined in the *Labour Relations Code*, a special municipal constable may be paid the remuneration and is appointed for the term the municipal police board determines.

(4) Subject to the restrictions the municipal police board specifies in the appointment, a special municipal constable has, while carrying out the duties of his or her appointment, the powers, duties and immunities of a municipal constable.

Bylaw enforcement officers

36 (1) Bylaw enforcement officers may be appointed,

(a) by a municipal police board, or

(b) if there is no municipal police board in a municipality, by the municipal council.

(2) A bylaw enforcement officer must be paid the remuneration and is appointed for the term that the municipal police board or municipal council determines.

(3) A bylaw enforcement officer must, under the direction of the chief constable or officer in charge of the detachment of police operating in the municipality, perform the functions and duties, and has the powers, privileges and responsibilities respecting the enforcement of municipal bylaws, that the municipal police board or municipal council specifies in the appointment.

37 [Repealed 1997-37-35.]

Jurisdiction of municipal constables

38 (1) A municipal constable or a special municipal constable has jurisdiction throughout British Columbia while carrying out the powers, duties, privileges and responsibilities that a police constable or peace officer is entitled or required to exercise or carry out at law or under any Act.

(2) If the minister believes an emergency exists outside the municipality in which a municipal constable or special municipal constable is employed, the minister may direct one or more municipal constables or special municipal constables to the part of British Columbia in which the emergency exists.

(3) If the minister makes a direction under subsection (2), the Minister of Finance and Corporate Relations must pay, from the consolidated revenue fund, the salary and other expenses of the municipal constable or special municipal constable during the period he or she is performing duties in the part of British Columbia where the emergency exists.

(4) If a municipal constable or special municipal constable performs duties outside the municipality, he or she must, if possible, notify the provincial police force or municipal police department of the area in which he or she performs the duties in advance, but in any case must promptly after performing the duties notify the provincial police force or municipal police force.

Part 8 -- Director of Police Services

Director of Police Services

39 (1) On behalf of the minister and subject to the direction of the minister, the director is responsible for superintending policing and law enforcement functions in British Columbia.

(2) Subject to the *Public Service Act*, the director may

(a) employ or retain the persons the director considers necessary to carry out the business of the director's office, and

(b) designate the title, office and responsibilities of persons employed or retained under paragraph (a).

(3) Despite the *Public Service Act* but subject to the minister's approval, the director may engage and retain any person the director considers necessary as a consultant, expert or specialist.

Functions of the director

40 (1) Without limiting section 39 (1), the director has the following functions:

(a) to inspect and report on the quality and standard of policing and law enforcement services delivery, including but not limited to

(i) inspecting policing and law enforcement operations and procedures,

(ii) evaluating programs for

(A) training persons who intend to become officers,

(B) training officers,

(C) retraining officers, and

(D) training officers who are eligible for advanced training, and

(iii) evaluating standards of policing and law enforcement;

(b) to maintain a system of statistical records required to carry out inspections, evaluations and research studies;

(c) to consult with and provide information and advice to the minister, chief constables, chief officers, boards and committees, on matters related to policing and law enforcement;

(d) to make recommendations to the minister about appointments to a board;

(e) to make recommendations to the minister on

(i) the minimum standards for the selection and training of officers or classes of officers,

(ii) the use of force by officers or classes of officers, including, without limitation, their training and retraining in the use of force, and

(iii) any other matter related to policing and law enforcement;

(f) to establish and carry out, or approve and supervise, programs to promote cooperative and productive relationships between officers and the public;

(g) to assist in the coordination of policing and law enforcement provided by the provincial police force, municipal police departments, designated policing units and designated law enforcement units;

(h) to report to the minister on the activities of police forces, police departments, designated policing units and designated law enforcement units in their provision of policing and law enforcement services;

(i) to perform other functions and duties assigned to the director under this Act or the regulations or under the *Private Investigators and Security Agencies Act* and its regulations.

(2) If a report is completed under subsection (1) (a), the director

(a) must submit a copy of the report to the minister, and

(b) may distribute a copy of the report to those persons the director considers appropriate.

(3) The director may inspect the records, operations and systems of administration of any policing or law enforcement operation but only if the director gives written notice of the inspection

(a) to the minister, and

(b) to the chair of the board or to a person designated by the minister as the person in charge of the operation.

(4) If requested by the minister, the director must inspect the records, operations and systems of administration of any policing or law enforcement operation, on notice to the chair of the board or to a person designated by the minister as the person in charge of the operation.

Rules of practice and procedure of the director

41 (1) The director must make rules, not inconsistent with this Act and the regulations, respecting the director's practice and procedure and the exercise of the director's powers under this Act and the regulations, and may establish forms required to be used for those purposes.

(2) A rule under subsection (1) is binding on a person only after the rule is approved by the minister.

Studies by director

42 (1) The director must, on request of the minister, and the director may, on the director's own initiative or on request of a council or board, study, investigate and prepare a report on matters concerning policing, law enforcement and crime prevention in British Columbia or in a designated area of British Columbia.

(2) The costs of a study requested by the minister under subsection (1) must be paid by the Minister of Finance and Corporate Relations from the consolidated revenue fund.

(3) The director must submit a report prepared under subsection (1) to the minister.

Inquiries

43 On request of the minister, the director must inquire into and report to the minister on matters

- (a) regarding crime and its investigation and control, and
- (b) of policing and law enforcement.

Special investigations

44 (1) Despite this Act,

- (a) the minister, or
- (b) the director, on the director's own initiative or on request of the police complaint commissioner or a board,

may at any time order an investigation into an alleged act, or an alleged omission of an act, committed by any person appointed under this Act.

(2) An investigation under subsection (1) must be performed by the person and in the manner specified in the minister's order or director's order, as the case may be.

(3) The costs of an investigation ordered by the minister under subsection (1) must be paid by the Minister of Finance and Corporate Relations from the consolidated revenue fund.

Delegation

45 The director may authorize one or more of the director's employees to exercise the powers and perform the duties and functions of the director under sections 40 and 42 to 44.

Part 9 -- Complaint Procedure

Division 1 -- Interpretation

Definitions and interpretation

46 (1) In this Part:

"adjudicator" means a Provincial Court judge assigned under section 60.1 (3) or (6) to preside at a public hearing;

"agent", in relation to a person who is a member of a trade union in which the majority of employees is engaged in police duties, means an individual of the person's choice and includes the trade union representative provided under the applicable collective agreement, but does not include counsel for the person;

"business day" means a day other than a Saturday or a holiday;

"Code of Professional Conduct" means the prescribed code of conduct;

"complainant" means the person who submitted a complaint under section 52 in relation to which a record of complaint is subsequently lodged under that section;

"complaint" means a complaint submitted under section 52 and includes a report made under section 65.1;

"complaint disposition" means the decision or resolution that concludes the complaint process under this Part and includes

(a) a final decision under section 54 (7) to summarily dismiss a complainant's complaint,

(b) an informal resolution that is final under section 54.2 (4),

(c) a disciplinary or corrective measure accepted by a respondent under section 58 (5),

(d) a disciplinary or corrective measure that is final under section 59.1 (4) (b), and

(e) a decision of an adjudicator under section 61 (6);

"conduct complaint" means an internal discipline complaint or a public trust complaint;

"discipline authority" means,

(a) in relation to a municipal constable against whom a conduct complaint is made, the chief constable of the municipal police department with which the respondent is employed, or a delegate of that chief constable,

(b) in relation to a chief constable or a deputy chief constable against whom a conduct complaint is made, the chair of the board by which the respondent is employed, or

(c) in relation to a municipal police department about which a complainant makes a complaint, the chair of the board that has authority over that police department;

"disciplinary default" means a breach of the Code of Professional Conduct;

"final investigation report" means the report provided by an investigating officer under section 56 (6);

"internal discipline complaint" means a complaint that relates to the acts, omissions or deportment of a respondent and that

(a) is not a public trust complaint, or

(b) is a public trust complaint that is not processed as a public trust complaint under Division 4;

"investigating officer" means the person who has conduct of an investigation of a complaint;

"public hearing" means a hearing arranged by the police complaint commissioner under section 60 or 60.1;

"public trust complaint" means a complaint to the effect that a respondent has committed a public trust default;

"public trust default" means conduct that would, if proved, constitute a disciplinary default and that

(a) causes or has the potential to cause physical or emotional harm or financial loss to any person,

(b) violates any person's dignity, privacy or other rights recognized by law, or

(c) is likely to undermine public confidence in the police;

"record of complaint" means a complaint recorded in the prescribed form under section 52 (4);

"respondent" means a municipal constable, chief constable or deputy chief constable against whom a complaint is made;

"service or policy complaint" means a complaint to the effect that one or more of the following are inadequate or inappropriate for or in relation to the conduct of a municipal police department:

(a) its policies;

(b) its procedures;

(c) its standing orders;

(d) its supervision and management controls;

(e) its training programs and resources;

(f) its staffing;

(g) its resource allocation;

(h) its procedures or resources that are available to permit it to respond to requests for assistance;

(i) any other internal operational or procedural matter.

(2) In this Part, **"lodge"** or **"lodged"** is a reference to the lodging of a written record of complaint, in the prescribed form, under section 52 (4).

Division 2 -- Police Complaint Commissioner

Police complaint commissioner

47 (1) On the recommendation of the Legislative Assembly, the Lieutenant Governor in Council must appoint as the police complaint commissioner a person, other than a member of the Legislative Assembly, who has been unanimously recommended for the appointment by a special committee of the Legislative Assembly.

(2) The police complaint commissioner is an officer of the Legislature.

(3) Subject to section 48, the police complaint commissioner holds office for a term of 6 years.

(4) A person who is appointed under this section is not eligible to be reappointed as police complaint commissioner.

Resignation, removal or suspension of police complaint commissioner

48 (1) The police complaint commissioner may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from British Columbia, by notifying the Clerk of the Legislative Assembly.

(2) The Lieutenant Governor in Council must remove the police complaint commissioner from office or suspend the police complaint commissioner for cause or incapacity on the recommendation of 2/3 of the members present in the Legislative Assembly.

(3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the police complaint commissioner for cause or incapacity.

Acting police complaint commissioner

49 (1) The Lieutenant Governor in Council may appoint an acting police complaint commissioner if one of the following applies:

(a) the office of police complaint commissioner is or becomes vacant when the Legislative Assembly is not sitting;

(b) the police complaint commissioner is suspended when the Legislative Assembly is not sitting;

(c) the police complaint commissioner is removed or suspended or the office of the police complaint commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under section 47 (1) before the end of the session;

(d) the police complaint commissioner will be temporarily absent for more than 30 days because of illness or any other reason.

(2) An acting police complaint commissioner holds office until the first of the following occurs:

(a) a person is appointed under section 47 (1);

(b) the suspension of the police complaint commissioner ends;

(c) the Legislative Assembly has sat for 20 days after the date of the acting police complaint commissioner's appointment;

(d) the police complaint commissioner returns to office after a temporary absence.

Powers and duties of police complaint commissioner

50 (1) The police complaint commissioner is to oversee the handling of complaints.

(2) Without limiting subsection (1), the police complaint commissioner is to

(a) receive complaints from any source,

(b) establish and maintain a record of complaints, including the complaint dispositions relating to those complaints,

(c) compile statistical information respecting all complaints,

(d) regularly prepare reports of the complaint dispositions made or reached during the reporting period, and make those reports available to the public,

(e) inform the public of the complaint procedures provided by this Part and the functions and duties of the police complaint commissioner,

(f) accept and consider comments from any interested person respecting the administration of this Part,

(g) inform, advise and assist complainants, respondents, discipline authorities, boards and adjudicators respecting the complaint process and the handling of complaints,

(h) periodically conduct reviews of the complaint process and make any recommendations for improvement of that process in the annual report under section 51.1,

(i) establish procedures for mediation services to assist complainants and respondents in achieving informal resolution of complaints and provide those services to those parties,

(j) establish guidelines to be followed by municipal police departments for the purpose of informal resolution of public trust complaints under section 54.1, and

(k) perform any other duties imposed and exercise any other powers provided by this Act.

(3) Without limiting subsection (1), the police complaint commissioner may do any of the following:

(a) prepare and provide informational reports on any matter related to the role of the police complaint commissioner;

(b) engage in or commission research on any matter relating to the purposes of this Part;

(c) make recommendations to a board that it examine and reconsider any written policies or procedures that may have been a factor in an act or omission that gave rise to a complaint;

(d) prepare guidelines respecting the procedures to be followed by a person receiving a complaint;

(e) make recommendations to the director or the Attorney General that a review, study or audit be undertaken to assist police departments or forces, or any designated policing unit or designated law enforcement unit to which this Part is made applicable by regulation of the Lieutenant Governor in Council, in developing training or other programs designed to prevent recurrence of any problems revealed by the complaint process;

(f) make recommendations to the Attorney General for a public inquiry under the *Inquiry Act* if there are reasonable grounds to believe that

(i) the issues in respect of which the inquiry is recommended are so serious or so widespread that an inquiry is necessary in the public interest,

(ii) an investigation conducted under this Part, even if followed by a public hearing, would be too limited in scope, and

(iii) powers granted under the *Inquiry Act* are needed;

(g) refer to Crown counsel a complaint, or one or more of the allegations in a complaint, for possible criminal prosecution.

(4) In exercising the police complaint commissioner's powers and duties under this Part in relation to a public trust complaint, the police complaint commissioner may receive and obtain information respecting the complaint from the parties and the discipline authority in the manner the police complaint commissioner considers appropriate including, without limitation, interviewing and taking statements from the discipline authority, the person making the complaint and the respondent.

(5) A person having records relating to a complaint must provide, on request, the police complaint commissioner with access to those records.

Salary, expenses and benefits of police complaint commissioner

50.1 (1) The police complaint commissioner is entitled

(a) to be paid, out of the consolidated revenue fund, compensation as may be fixed by the Lieutenant Governor in Council, and

(b) to be reimbursed for reasonable travelling and out of pocket expenses personally incurred in performing the duties of the office.

(2) The Lieutenant Governor in Council may order that the *Pension (Public Service) Act* applies to the police complaint commissioner.

Staff of police complaint commissioner

51 (1) The police complaint commissioner may appoint, in accordance with the *Public Service Act*, employees necessary to enable the police complaint commissioner to perform the duties of the office.

(2) For the purpose of the application of the *Public Service Act* to subsection (1) of this section, the police complaint commissioner is deemed to be a deputy minister.

(3) The police complaint commissioner may appoint a deputy police complaint commissioner, who may carry out the functions of the police complaint commissioner while the police complaint commissioner is temporarily absent for a period of not more than 30 days because of illness or any other reason.

(4) The police complaint commissioner may incur reasonable office and other expenses as may be necessary to discharge functions under this Act.

(5) The police complaint commissioner may retain consultants, mediators or other persons as may be necessary to discharge functions under this Act, and may establish their remuneration and other terms and conditions of their retainers.

(6) The *Public Service Act* does not apply in respect of a person retained under subsection (5) of this section.

(7) The police complaint commissioner may make a special report to the Legislative Assembly if the police complaint commissioner considers that one or both of the following are inadequate for fulfilling the duties of the office:

(a) the amounts and establishment provided for the office of police complaint commissioner in the estimates;

(b) the services provided by the Public Service Employee Relations Commission.

Annual report

51.1 (1) **The police complaint commissioner must report annually to the Speaker of the Legislative Assembly on the work of the police complaint commissioner's office.**

(2) The Speaker must promptly lay each annual report before the Legislative Assembly if it is in session and, if the Legislative Assembly is not in session when the report is submitted, within 15 days after the beginning of the next session.

Review of this Part

51.2 (1) A special committee of the Legislative Assembly must begin a comprehensive review of this Part and the work of the police complaint commissioner within 3 years after this Part comes into force and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments to this Part that the committee recommends.

(2) As part of the review process contemplated by subsection (1), the committee must solicit and consider written and oral input from any interested person or organization.

Division 3 -- Processing of Complaints

Submission of complaints

52 (1) A person may make a complaint under this Part

- (a) against a municipal constable,
- (b) against a chief constable or deputy chief constable, and
- (c) about a municipal police department.

(2) The person may submit the complaint referred to in subsection (1) to any of the following:

- (a) the police complaint commissioner;
- (b) the discipline authority;
- (c) the senior constable of the municipal police department with which the respondent, if any, is employed or about which the complaint is made, who is on duty at the time that the complaint is submitted.

(3) If a complaint is submitted to a person referred to in subsection (2) (b) or (c), the person receiving the complaint must

- (a) provide the person submitting the complaint with any assistance that person requires in submitting the complaint,
- (b) advise the person submitting the complaint that the complaint may also be submitted to the police complaint commissioner, and
- (c) provide any other information or advice to the person submitting the complaint that may be required under the guidelines prepared by the police complaint commissioner under section 50 (3) (d).

(4) A complaint under this Part may initially be submitted orally or in writing but, before the complaint may be processed under Division 4 or 5, the complaint must be committed to writing in the prescribed form and that record of complaint must be lodged with one or more of the persons referred to in subsection (2) of this section.

(5) A person who receives a complaint under subsection (2) must, as required, assist the person submitting the complaint in completing a record of complaint.

(6) Despite section 65.1 and subsection (4) of this section, whether or not a complaint is submitted in writing and whether or not the complaint is made in confidence under section 65.1,

- (a) the police complaint commissioner may inform Crown counsel of any allegation in the complaint that could constitute a criminal offence,

(b) a municipal or provincial constable may investigate any allegation in a complaint that a criminal offence was or may have been committed, and

(c) Crown counsel may proceed with criminal charges against the respondent.

(7) If a record of complaint is lodged with the police complaint commissioner or with the senior constable referred to in subsection (2) (c), that person must promptly after receipt provide a copy of that record,

(a) if the complaint appears to be or to include a conduct complaint against a chief constable, to the board by which that chief constable is employed, or

(b) in any other case, to the chief constable of the municipal police department about which the complaint is made or with which the respondent is employed.

(8) If a record of complaint is lodged with a municipal police department, the chief constable for that department must send a copy of that record to the police complaint commissioner within 10 business days after the complaint is lodged.

Characterizing record of complaint and notification

52.1 (1) Promptly after receiving a record of complaint under section 52 (7) (a) or (b), the recipient of that record must

(a) characterize the complaint as one or more of the following:

(i) a public trust complaint;

(ii) an internal discipline complaint;

(iii) a service or policy complaint, and

(b) otherwise begin to process the complaint under this Part.

(2) In making a decision on characterization under subsection (1) (a), the recipient referred to in that subsection may consult with the police complaint commissioner.

(3) Within 10 business days after making a decision on characterization under subsection (1) (a), the recipient referred to in subsection (1) must send notice of that decision to the police complaint commissioner and, if the characterization includes a conduct complaint, the recipient must also provide notice to the respondent that the complaint has been lodged unless the recipient determines that notification could jeopardize an investigation into the complaint.

(4) If the recipient withholds notice to a respondent under subsection (3), the recipient must advise the police complaint commissioner of the withholding and provide reasons for it.

(5) The police complaint commissioner may order the discipline authority of the respondent referred to in subsection (4) to provide the notice to the respondent and the

discipline authority must, within 10 business days after becoming aware of that order, provide the required notice to the respondent.

(6) The police complaint commissioner must review a recipient's decision on characterization under this section and may

- (a) confirm the characterization,
- (b) overrule the characterization and independently characterize the complaint, or
- (c) request further information.

(7) The police complaint commissioner must

- (a) make a decision under subsection (6) (a) or (b) within 10 business days after
 - (i) receiving the decision on characterization, or
 - (ii) if further information is requested under subsection (6) (c), receiving that information, and
- (b) promptly after making a decision, provide notice of that decision to
 - (i) the discipline authority,
 - (ii) the complainant, and
 - (iii) the respondent, if any, unless a decision has been made under this section to withhold notice of a complaint.

(8) The decision of the police complaint commissioner under subsection (6) (a) or (b) is final unless new information comes to the police complaint commissioner's attention, in which case the police complaint commissioner may

- (a) change the characterization of the complaint, and
- (b) make any other order allowed in relation to a complaint under this Part.

Withdrawal of complaint

52.2 (1) A complainant who wishes to withdraw a complaint that the complainant has lodged may at any time file a written notice of withdrawal with the discipline authority or the police complaint commissioner, or both.

(2) If the notice of withdrawal under subsection (1) is filed only with the discipline authority, the discipline authority must, within 10 business days after receipt, provide a copy of that notice to the police complaint commissioner.

(3) If the notice of withdrawal under subsection (1) is filed only with the police complaint commissioner, the police complaint commissioner must, within 10 business days after receipt, provide a copy of that notice to the discipline authority.

(4) After receiving a notice of withdrawal under subsection (1) or (2), the police complaint commissioner must, if the police complaint commissioner suspects that the notice of withdrawal may have been made under duress, make reasonable efforts to determine if duress was involved.

(5) If the police complaint commissioner determines that the notice of withdrawal was made under duress, the police complaint commissioner must order the discipline authority to conduct an investigation into one or more of the allegations in the complaint and to proceed with processing the complaint under this Part.

(6) If the police complaint commissioner determines that the notice of withdrawal was not made under duress, the police complaint commissioner may provide directions to the discipline authority with respect to the complaint.

(7) Directions provided under subsection (6) may, without limitation, include directions that the discipline authority conduct an investigation into any or all of the allegations in the complaint.

(8) The discipline authority must comply with any order made under subsection (5) or direction provided under subsection (6) and may, if and to the extent that it is not in conflict with that order or direction,

(a) continue to process the complaint under this Part, or

(b) summarily dismiss the complaint under section 54 (1).

(9) Subject to subsection (10), and despite any other provision of this Part, if the discipline authority continues to process a complaint after a notice of withdrawal is filed by the complainant under subsection (1), the complainant is not entitled to receive any records created after the date on which the notice of withdrawal is filed.

(10) If a public hearing is arranged in respect of a complaint referred to in subsection (1) and the complainant is required to be a witness at the public hearing, the complainant is entitled, on a request made to the discipline authority before the date of the public hearing, to receive all of the records that the complainant would otherwise have received during the processing of the complaint, and sections 56 (1) to (5), 57, 57.1, 58 (5) (a) and 59.1 apply.

Division 4 -- Public Trust Complaints

Definitions

53 In this Division:

"complainant" does not include a third party complainant;

"third party complainant" means a person who has lodged a public trust complaint but who is not personally adversely affected by the conduct complained of.

Application of this Division to third party complainants

53.1 (1) Unless expressly provided to the contrary, this Division does not apply to third party complainants.

(2) Without limiting subsection (1), a third party complainant has none of the rights available to complainants under this Division except that if the public trust complaint lodged by the third party complainant results in discipline proceedings or criminal charges, the discipline authority must inform the third party complainant of the results.

Summary dismissal of public trust complaints

54 (1) A discipline authority may summarily dismiss a public trust complaint, whether or not the complainant or third party complainant has filed a notice of withdrawal under section 52.2, if the discipline authority is satisfied that

(a) the complaint is frivolous or vexatious,

(b) there is no reasonable likelihood that further investigation would produce evidence of a public trust default, or

(c) the complaint concerns an act or omission that, to the knowledge of the complainant or third party complainant, occurred more than 12 months before the complaint was made.

(2) Subject to this section, a public trust complaint that has been summarily dismissed under subsection (1) must not be investigated or further investigated under this Division, but nothing in this subsection prevents further action being taken in relation to any internal discipline component or service or policy component of the complaint.

(3) If a discipline authority decides to summarily dismiss a public trust complaint, the discipline authority must, within 10 business days after making that decision, provide to the complainant, the respondent and the police complaint commissioner written notice of the discipline authority's decision, the reasons for it and the recourse that is available to the complainant under this Part.

(4) A complainant may apply to the police complaint commissioner for a review of the decision of a discipline authority to summarily dismiss his or her complaint under this section.

(5) An application for a review under subsection (4) must be filed with the police complaint commissioner within 30 days after the date of the notice provided under subsection (3).

(6) Whether or not an application for a review is filed with the police complaint commissioner in relation to a public trust complaint that is summarily dismissed under this section, the police complaint commissioner must, within 30 days after the date of the notice provided under subsection (3),

(a) examine the discipline authority's decision and the reasons for the summary dismissal, and either

- (i) confirm the discipline authority's decision, or
 - (ii) if the police complaint commissioner concludes that it is in the public interest to investigate the complaint, order the discipline authority to conduct an investigation into the complaint, and
- (b) notify in writing the discipline authority, the complainant and the respondent of the outcome of the police complaint commissioner's examination under paragraph (a).
- (7) The decision of a discipline authority to summarily dismiss a public trust complaint is final and the complaint is deemed to have been dismissed unless
- (a) an application for review is received by the police complaint commissioner under subsection (5), or
 - (b) the police complaint commissioner makes an order under subsection (6) (a) (ii).
- (8) Whether or not, within the time required by this section, an application for review is received under subsection (5) or an order is made under subsection (6) (a) (ii), the police complaint commissioner may at any time order a discipline authority to investigate a public trust complaint that has been summarily dismissed if new information is received that, in the opinion of the police complaint commissioner, requires an investigation.
- (9) On receiving new information and ordering a discipline authority to investigate a public trust complaint under subsection (8), the police complaint commissioner must notify in writing the discipline authority, the complainant and the respondent of the nature of the new information and the reasons for ordering the investigation.
- (10) The discipline authority to whom an order under subsection (6) (a) (ii) or (8) is directed must conduct the investigation ordered.

Informal resolution

- 54.1** (1) Unless the complaint is summarily dismissed under section 54, the discipline authority must, promptly after receiving a public trust complaint, and may, at any later time, determine whether an informal resolution of the complaint is appropriate.
- (2) If an informal resolution is determined to be inappropriate, the discipline authority must proceed with an investigation of the complaint under section 55 or 55.1.
- (3) Subject to subsection (4), if an informal resolution is determined to be appropriate, the discipline authority must seek the consent of the complainant and the respondent to informal resolution.
- (4) The discipline authority must not proceed with an informal resolution of a complaint referred to in subsection (1) unless the complainant and the respondent consent to that procedure.
- (5) The discipline authority may, for the purposes of informally resolving a complaint under this section, do one or both of the following:

- (a) use any one or more means of alternate dispute resolution;
 - (b) enlist the assistance of a neutral and independent person as mediator.
- (6) Informal resolution must be pursued in accordance with any guidelines respecting informal resolution that are established by the police complaint commissioner.
- (7) Complainants have the right to seek advice before and during an attempt to informally resolve a complaint under this section and the discipline authority must inform the complainant of that right at the time that the complainant's consent to the process is being sought.
- (8) The police complaint commissioner must make available a list of support groups and neutral dispute resolution service providers and agencies that may assist complainants with the informal resolution process under this section, and the person with whom a public trust complaint is lodged must provide that list to the complainant when the complaint is lodged.
- (9) In the informal resolution process, a complainant may enlist the assistance of a support person of the complainant's choice or may ask the police complaint commissioner to appoint a support person for the complainant.
- (10) A support person, enlisted or appointed under subsection (9), may
- (a) be present at any interview about the complaint and at any mediation or informal resolution session, and
 - (b) participate at any of those sessions with the consent of the respondent.
- (11) The complainant or respondent may ask the police complaint commissioner to appoint a mediator, if one has not already been enlisted under subsection (5) (b), and the police complaint commissioner may appoint a mediator if the police complaint commissioner considers it appropriate.
- (12) No oral or written statement made or given by any person in the course of an attempt to resolve the complaint informally may be used or received as evidence in any civil, criminal or administrative proceeding, including, without limitation, a public hearing.
- (13) Without limiting subsection (12), an apology by the complainant or respondent must not be admitted into evidence or construed as an admission of fault at any subsequent civil, criminal or administrative proceeding or in any subsequent proceeding under this Act.
- (14) Whether or not a complaint is resolved informally under this section, the discipline authority must notify the complainant, the respondent and the police complaint commissioner of the results of any attempt at informal resolution.

Reaching resolution through informal resolution process

54.2 (1) Subject to subsection (3), a complaint is resolved when the complainant and the respondent

(a) sign a letter consenting to the resolution of the complaint in the manner set out in the letter, and

(b) provide that letter to the discipline authority, with a copy to the police complaint commissioner.

(2) Within 10 business days after signing the letter referred to in subsection (1), a signatory to that letter may, by written notice of revocation to the discipline authority or the police complaint commissioner, revoke the signatory's consent to the informal resolution.

(3) If a consent to an informal resolution is revoked under subsection (2),

(a) the resolution is of no effect, and

(b) the recipient of the notice of revocation must, within 10 business days after receiving the notice, provide notice of the revocation to those of the police complaint commissioner, the discipline authority, the complainant and the respondent who are not aware of that revocation.

(4) Unless the complainant or the respondent revokes consent under subsection (2), the informal resolution set out in the letter signed under subsection (1) is final and binding on them after the expiration of the period referred to in subsection (2).

(5) No disciplinary action may be taken against a respondent as a result of an informal resolution of a complaint until the informal resolution has become binding under subsection (4).

(6) A complainant's complaint that is resolved by informal resolution must not be entered in a respondent's service record of discipline, but may be entered in a respondent's personnel file.

(7) A record respecting an informal resolution that is entered in an officer's personnel file may only be opened

(a) for the purposes of deciding whether a subsequent attempt at informal resolution is appropriate, or

(b) for personnel matters unrelated to discipline.

Investigation of public trust complaints

55 (1) Subject to sections 54 and 55.1, if a record of complaint in respect of a public trust complaint is lodged under this Part, the discipline authority must promptly initiate an investigation into the complaint if

(a) informal resolution of the complaint is not attempted or is unsuccessful, or

(b) the discipline authority is ordered to conduct an investigation by the police complaint commissioner.

(2) If an investigation is not initiated within 45 days after the record of complaint is lodged, the discipline authority must notify the police complaint commissioner of the reasons for the delay.

(3) Despite any other provision of this Act, the police complaint commissioner may order an investigation into the conduct of a municipal constable, chief constable or deputy chief constable, whether or not a record of complaint has been lodged.

External investigation of public trust complaints

55.1 (1) The discipline authority must refer an investigation into a public trust complaint to another municipal police department or to the commissioner if

(a) the discipline authority considers an external investigation is necessary in order to preserve public confidence in the complaint process, or

(b) the police complaint commissioner so orders.

(2) On application by a complainant or a respondent or on the police complaint commissioner's own motion, the police complaint commissioner may make an order under subsection (1) (b) if the police complaint commissioner considers that an external investigation is necessary in the public interest.

Investigating officer

55.2 (1) Subject to subsection (2), a person employed by the police force or police department that is to conduct an investigation into a public trust complaint may be appointed as investigating officer by

(a) the chief constable of that police force or police department, or

(b) if the investigation is conducted by the provincial police force, the commissioner.

(2) A person must not be appointed as investigating officer under subsection (1) if

(a) the person's rank is not equal to or higher than the rank of the respondent, or

(b) the person has a connection with the complaint.

(3) If the discipline authority requests a report referred to in section 56, the investigating officer appointed to conduct the investigation must promptly provide the discipline authority with any information necessary for the discipline authority to comply with section 56 (1) and (5).

Reports during investigations and extensions of investigations

56 (1) Unless subsection (2) applies, the discipline authority must report to the complainant, the respondent and the police complaint commissioner on the progress of an investigation conducted under section 55 or 55.1 by providing to them

(a) an initial report within 45 days after the initiation of the investigation, and

(b) follow-up reports for so long as the investigation continues and at least once every 30 days after the date of the initial report.

(2) Subject to subsection (4), a report must not be sent to the complainant or respondent under subsection (1) if the discipline authority considers that sending the report to that person would hinder the investigation.

(3) If the discipline authority withholds a report under subsection (2), the discipline authority must advise the police complaint commissioner of the withholding and provide reasons for it.

(4) The police complaint commissioner may order the discipline authority to provide a report under subsection (1) to a person referred to in subsection (2) and the discipline authority must, within 10 business days after becoming aware of that order, provide the required report to the person.

(5) In addition to the reports provided under subsection (1), the police complaint commissioner may at any time request a progress report on an investigation and the discipline authority must provide that report to the police complaint commissioner within 10 business days after receiving that request.

(6) Within 10 business days after the conclusion of an investigation, the investigating officer must complete a report of the investigation, including in it his or her findings, conclusions, recommendations and any prescribed matters, and must

(a) provide that final investigation report and any other prescribed records to the discipline authority, and

(b) if the investigation was conducted under section 55.1 or 56.1 (3), provide a copy of that final investigation report and any other prescribed records to the police complaint commissioner.

(7) An investigation into a public trust complaint must be completed within 6 months after the date that the record of complaint is lodged under section 52 (4), unless the police complaint commissioner grants one or more extensions.

(8) For the purpose of subsection (7), an investigation is completed when the discipline authority has reviewed the final investigation report referred to in subsection (6) and has determined what course of action to follow.

(9) The police complaint commissioner may grant an extension under subsection (7) only if

- (a) new investigative leads are discovered that could not have been revealed with reasonable care,
- (b) the case or investigation is unusually complex, or
- (c) the police complaint commissioner considers that an extension is in the public interest.

Role of police complaint commissioner in investigation

56.1 (1) The police complaint commissioner may appoint an employee under section 51 as an observer to an investigation under subsection (3) of this section, section 55 or 55.1 if, in the police complaint commissioner's judgment, the appointment is necessary in the public interest.

(2) The person appointed under subsection (1) must prepare for the police complaint commissioner an independent report on the investigation.

(3) The police complaint commissioner may, at any time, order a new investigation or an investigation by another municipal police department or the provincial police force if the police complaint commissioner concludes that the original investigation was inadequate or unreasonably delayed.

Reassignment or suspension pending an investigation and hearing

56.2 (1) If a municipal constable, chief constable or deputy chief constable is being investigated as a result of an allegation that that person committed an offence under a federal or provincial enactment or as a result of a complaint against that person under this Act, the discipline authority for that person may, until the completion of that investigation, reassign or suspend the person with his or her pay, if

(a) the discipline authority considers that

(i) reassignment or suspension of the person is needed to protect municipal constables or other persons from the risk of harm,

(ii) failure to reassign or suspend the person is likely to bring the reputation of the municipal police department as a whole into disrepute, or

(iii) there are grounds to believe that the person is incapable of carrying out his or her regular duties as a constable, and

(b) the discipline authority considers that there is no reasonable alternative available.

(2) During a period of suspension from duty, a municipal constable, chief constable or deputy chief constable must not exercise powers as a municipal constable, chief constable or deputy chief constable and must not wear or use the uniform or equipment of the municipal police department.

(3) At the earliest opportunity, and in any event within 10 business days after the suspension, the discipline authority must decide whether the suspension is to continue in effect or is to be rescinded with or without conditions.

(4) Unless subsection (5) applies, a municipal constable, chief constable or deputy chief constable under suspension for a period within which that person, if not suspended, would have worked one or more days

(a) must receive his or her pay and allowances for the number of days, up to 30, that he or she could have worked during the period of suspension had the suspension not been imposed, and

(b) may, at the discretion of the board, receive his or her pay for any day that he or she could have worked during the period of suspension, after the 30 days referred to in paragraph (a), had the suspension not been imposed.

(5) The board may, at any time, discontinue the pay and allowances of a municipal constable, chief constable or deputy chief constable who is under suspension if the allegation in response to which the suspension was imposed would, if proved, constitute a criminal offence.

(6) Written notice of a decision by the board to discontinue the pay and allowances of a municipal constable, chief constable or deputy chief constable must be given promptly to the municipal constable, chief constable or deputy chief constable, as the case may be, and that person may, within 10 business days after receipt, request a hearing before the board.

(7) Within 30 days after receiving a request under subsection (6), the board must hold a hearing to review the decision to discontinue pay and allowances.

(8) The person who requests a hearing under subsection (6) may appear at the hearing personally or by counsel or agent.

(9) A municipal constable, chief constable or deputy chief constable must receive his or her full pay and allowances for any unpaid period of suspension if

(a) the suspension related to an investigation resulting from an allegation that he or she committed an offence under a federal or provincial enactment,

(b) he or she is acquitted of all charges in proceedings before a criminal court or the charges are withdrawn, stayed or otherwise not proceeded with, and

(c) no disciplinary or corrective measures are imposed on him or her for the acts or omissions that constituted the alleged offence.

Disclosure of documents

57 (1) Within 10 business days after receiving the final investigation report, the discipline authority must provide to the complainant and to the respondent a summary of that report, including

- (a) a concise factual account of any incident that brought about the complaint,
- (b) a brief account of the investigative steps taken, and
- (c) a brief account of the findings, conclusions and recommendations contained in that report,

and the discipline authority may sever from the summary provided any portions of the report that may be excepted from disclosure under the *Freedom of Information and Protection of Privacy Act*.

(2) The discipline authority must promptly after receipt provide the police complaint commissioner with a complete unedited copy of the final investigation report and, subject to subsection (3), provide the police complaint commissioner with any other record that

(a) concerns the complaint and the complainant or the third party complainant, as the case may be, and

(b) is in the custody or control of its municipal police department or, as the case may be, in the custody and control of its municipal police department and of the investigating officer's police force or police department,

including, without limitation,

(c) all related records,

(d) all reasons for imposing or not imposing disciplinary or corrective measures in relation to the complaint,

(e) all written policies or procedures that may have been a factor in the act or omission that gave rise to the complaint, and

(f) the respondent's service record of discipline.

(3) By agreement between a discipline authority and the police complaint commissioner, the requirement imposed on the discipline authority to provide the police complaint commissioner with a record referred to in subsection (2) may be satisfied if unlimited access to, inspection and production of the record is granted by the discipline authority to the satisfaction of the police complaint commissioner.

(4) Within 10 business days after receiving the summary of the final investigation report referred to in subsection (1), the complainant or respondent may apply to the police complaint commissioner for disclosure of all or part of the information that was severed from the copy of the report.

(5) The police complaint commissioner may disclose information requested under subsection (4) if the police complaint commissioner considers that

(a) disclosure is necessary for the applicant to pursue rights granted by this Act, and

(b) disclosure is appropriate having regard to the factors set out in Part 2 of the *Freedom of Information and Protection of Privacy Act*.

Notice to respondent and complainant

57.1 (1) Within 10 business days after receiving a final investigation report, the discipline authority must determine if the evidence contained in that report is sufficient to warrant the imposition of disciplinary or corrective measures and must,

(a) if it is determined that disciplinary or corrective measures are warranted, serve notice to that effect on the respondent and send a copy of that notice by registered mail to the complainant, or

(b) if it is determined that disciplinary or corrective measures are not warranted, send notice to that effect by registered mail to the respondent and the complainant, and subsection (4) applies.

(2) A notice provided under subsection (1) (a) must set out

(a) the nature of the complaint in sufficient factual detail to identify the incident,

(b) the alleged discipline defaults, identifying those sections of the Code of Professional Conduct alleged to be breached,

(c) whether the complaint was dealt with as a public trust complaint or as an internal discipline complaint,

(d) whether a prehearing conference will be offered, and

(e) a description of the response proposed by the discipline authority to each alleged discipline default.

(3) A complainant who is aggrieved by the determination made by the discipline authority under subsection (1) (b) may file with the police complaint commissioner a written request for a public hearing in accordance with section 60 (1) (b) and section 60 (2) applies.

(4) Unless the police complaint commissioner arranges a public hearing, a determination made under subsection (1) (b) is final and conclusive and is not open to question or review by a court on any ground.

Prehearing conferences

58 (1) If the discipline authority considers that the evidence contained in a final investigation report is sufficient to justify the imposition of disciplinary or corrective measures against a respondent and the discipline authority has complied with section 57.1 (1) and (2), the discipline authority may offer the respondent a confidential, without prejudice, prehearing conference to determine whether the respondent is willing to admit a public trust default and, if so, what disciplinary or corrective measures the respondent is willing to accept.

(2) A prehearing conference must not be offered if the discipline authority concludes that

(a) the complaint against the respondent is sufficiently serious to warrant dismissal or reduction in rank, or

(b) a prehearing conference would be contrary to the public interest.

(3) If a respondent accepts an offer for a prehearing conference under subsection (1), the respondent may be accompanied at the prehearing conference by one or both of the following:

(a) an agent;

(b) the respondent's counsel.

(4) A discipline authority must use the principles and guidelines set out in the Code of Professional Conduct in proposing and approving any disciplinary or corrective measures under this section.

(5) If disciplinary or corrective measures are accepted by a respondent and approved by the discipline authority at a prehearing conference in relation to any alleged discipline default respecting the complaint lodged, the discipline authority must,

(a) within 10 business days after the prehearing conference, serve on the complainant, or send to the complainant by registered mail, and provide the police complaint commissioner with, a report that sets out

(i) for each alleged discipline default,

(A) any disciplinary or corrective measure accepted and approved, and

(B) any policy change being considered by the discipline authority in respect of the matter,

(ii) the reasons for the proposed measures or policy changes,

(iii) any noted aggravating and mitigating factors in the case, subject to severing those portions of the disposition record that may be excepted from disclosure under the *Freedom of Information and Protection of Privacy Act*, and

(iv) the recourse available to the complainant under this section, and

(b) if the resolution is final and conclusive under subsection (7), record on the respondent's service record of discipline the respondent's admission, any disciplinary or corrective measure approved and the fact that the measure was voluntarily accepted by the respondent.

(6) A complainant who is aggrieved by the resolution of a public trust complaint under this section may file with the police complaint commissioner a written request for a public hearing in accordance with section 60 (1) (c) and section 60 (2) applies.

(7) Disciplinary or corrective measures accepted by a respondent and approved by the discipline authority at a prehearing conference constitute a resolution of the matter and, unless a public hearing in respect of the complaint is arranged by the police complaint commissioner, the resolution is final and conclusive and is not open to question or review by a court on any ground.

Convening discipline proceedings

58.1 (1) Subject to subsection (2), if it is determined under section 57.1 (1) (a) that imposition of disciplinary or corrective measures against a respondent is warranted and a prehearing conference is not offered or held under section 58 or, if held, does not result in a resolution of all alleged discipline defaults respecting the complaint, the discipline authority must

(a) convene and preside at a discipline proceeding,

(b) provide to the complainant at least 15 business days' notice of the discipline proceeding, and

(c) serve the respondent with at least 15 business days' notice, in the prescribed form, of the discipline proceeding.

(2) If at any time a public hearing is arranged by the police complaint commissioner in respect of a matter that is the subject of a discipline proceeding under subsection (1), the discipline authority must cancel the discipline proceeding.

(3) At any time before a discipline proceeding is held under this section, the complainant may make written or oral submissions to the discipline authority respecting the complaint, the adequacy of the investigation and the range of disciplinary or corrective measures that should be considered.

(4) The following persons may attend a discipline proceeding under this section:

(a) the police complaint commissioner or the police complaint commissioner's delegate;

(b) the respondent's agent or counsel, or both.

(5) The following persons must attend a discipline proceeding under this section:

(a) the respondent;

(b) the discipline authority;

(c) the investigating officer.

Conduct of discipline proceedings

59 (1) Each alleged discipline default respecting the complaint, other than those resolved at a prehearing conference held in respect of the matter under section 58, must be read to the respondent at a discipline proceeding, and the respondent must be asked to admit or deny the alleged discipline default.

(2) No witnesses, other than the investigating officer who prepared the final investigation report, may be called at a discipline proceeding and the only records that may be presented are the final investigation report, any separate reports prepared respecting the investigation and any other relevant written records, from which reports and records may be severed any portions that may be excepted from disclosure under the *Freedom of Information and Protection of Privacy Act*.

(3) The respondent is not compellable at a discipline proceeding under this section, but the respondent, or his or her agent or counsel, if any, may

(a) ask questions of the investigating officer who prepared the final investigation report, and

(b) make submissions concerning the complaint, the adequacy of the investigation and the range of disciplinary or corrective measures that should be considered.

(4) A discipline proceeding must be electronically recorded.

(5) At the conclusion of a discipline proceeding under this section, the discipline authority must

(a) in relation to each alleged discipline default under subsection (1), make a finding as to whether the discipline default has been proved on the civil standard of proof,

(b) record those findings in the prescribed form, and

(c) invite and hear submissions from the respondent, or his or her agent or counsel, as to appropriate disciplinary or corrective measures for each discipline default found to be proven under paragraph (a).

(6) Within 10 business days after hearing submissions from the respondent, or his or her agent or counsel, at the conclusion of a discipline proceeding under subsection (5), the discipline authority must

(a) propose disciplinary or corrective measures for each discipline default found to be proven under subsection (5) (a),

(b) record those proposed measures and the date in a disposition record in the prescribed form,

(c) include in the disposition record any aggravating or mitigating factors in the case, and

(d) serve a copy of the disposition record on the respondent.

Review of discipline proceedings

59.1 (1) Within 10 business days after the date of the disposition record referred to in section 59 (6), the discipline authority must

(a) serve on the complainant or send to the complainant by registered mail a report setting out

- (i) the findings of the discipline authority under section 59 (5) (a),
 - (ii) any disciplinary or corrective measures proposed by the discipline authority under section 59 (6) (a) and any policy changes being considered by the discipline authority in respect of the complaint,
 - (iii) the reasons for the proposed measures or policy changes,
 - (iv) any noted aggravating and mitigating factors in the case, subject to severing those portions of the disposition record that may be excepted from disclosure under the *Freedom of Information and Protection of Privacy Act*, and
 - (v) the recourse available to the complainant under this section, and
- (b) provide the police complaint commissioner with the entire unedited record of the proceedings, an unedited copy of the disposition record and a copy of the report sent to the complainant under paragraph (a).

(2) After receiving the records and report referred to in subsection (1) (b), the police complaint commissioner may

- (a) order that the discipline authority provide to the police complaint commissioner further reasons justifying the particular disciplinary or corrective measures imposed, and
- (b) provide those further reasons to the complainant and the respondent.

(3) A respondent or complainant who is aggrieved by the disposition of a public trust complaint proposed by a discipline authority in a disposition record may file with the police complaint commissioner a written request for a public hearing in accordance with section 60 (1) (a) or (d), as the case may be, and section 60 (2) applies.

(4) Unless a public hearing is arranged by the police complaint commissioner,

- (a) the complainant and respondent referred to in this section are deemed to have accepted the proposed disposition,
- (b) any disciplinary or corrective measures proposed under section 59 (6) (a) are final and binding, and
- (c) the proposed disposition is final and conclusive and is not open to question or review by a court on any ground.

Request for a public hearing

60 (1) A written request for a public hearing must be received by the police complaint commissioner,

- (a) in the case of a respondent, within 30 days after receiving the disposition record under section 59 (6),

(b) in the case of a complainant seeking a public hearing under section 57.1 (3), within 30 days after the later of

(i) the date on which the complainant received the notice under section 57.1 (1), and

(ii) the date on which the complainant receives the information disclosed by the police complaint commissioner under section 57 (5) or receives the decision of the police complaint commissioner that no further information will be disclosed,

(c) in the case of a complainant seeking a public hearing under section 58 (6), within 30 days after receiving the report provided under section 58 (5) (a), or

(d) in the case of a complainant seeking a public hearing under section 59.1 (3), within 30 days after receiving the report provided under section 59.1 (1) (a).

(2) Despite subsection (1), the police complaint commissioner may extend the period within which a public hearing may be requested if the police complaint commissioner considers that there are reasonable grounds for the delay in making the request.

(3) Promptly after receiving a request for a public hearing within the time limited by subsection (1) or (2), the police complaint commissioner must arrange a public hearing under section 60.1 if

(a) the request for a public hearing is made by a respondent and a disciplinary or corrective measure more severe than a verbal reprimand has been proposed for that respondent, or

(b) in any other case, the police complaint commissioner determines that there are grounds to believe that a public hearing is necessary in the public interest.

(4) The police complaint commissioner may arrange a public hearing without a request from either a complainant or respondent if the police complaint commissioner considers that there are grounds to believe that the public hearing is necessary in the public interest.

(5) In deciding whether a public hearing is necessary in the public interest, the police complaint commissioner must consider all relevant factors including, without limitation, the following factors:

(a) the seriousness of the complaint;

(b) the seriousness of the harm alleged to have been suffered by the complainant;

(c) whether there is a reasonable prospect that a public hearing would assist in ascertaining the truth;

(d) whether an arguable case can be made that

(i) there was a flaw in the investigation,

(ii) the disciplinary or corrective measures proposed are inappropriate or inadequate, or

(iii) the discipline authority's interpretation of the Code of Professional Conduct was incorrect;

(e) whether a hearing is necessary to preserve or restore public confidence in the complaint process or in the police.

(6) Within 10 business days after making a decision to arrange or to refuse to arrange a public hearing under this section, the police complaint commissioner must notify the discipline authority, complainant and respondent of that decision.

Ordering public hearings

60.1 (1) Public hearings respecting the disposition, proposed by a discipline authority, of a public trust complaint must be conducted before an adjudicator.

(2) If the police complaint commissioner arranges a public hearing under section 60 or orders a public hearing under section 64 (7), the police complaint commissioner must consult with the chief judge of the Provincial Court to determine the earliest practical date or dates on which a Provincial Court judge would be available to preside as the adjudicator at the public hearing, and the police complaint commissioner must arrange and set, as the date or dates for the public hearing, the date or dates so determined.

(3) On the request of the police complaint commissioner, the chief judge of the Provincial Court must assign a Provincial Court judge to preside as the adjudicator at a public hearing.

(4) If the Provincial Court judge assigned to preside at a public hearing is unable for any reason to perform as the adjudicator at that public hearing, the chief judge of the Provincial Court must arrange and set, as a new hearing date, the earliest practical date or dates on which a Provincial Court judge is available to preside as the adjudicator at the public hearing.

(5) If a public hearing is not concluded within the date or dates set for it, the chief judge of the Provincial Court must arrange and set,

(a) as the continuation date or dates for the public hearing, the earliest practical date or dates on which the Provincial Court judge who presided at the initial stages of the public hearing is available to preside at the continuation of the public hearing, and

(b) if the judge referred to in paragraph (a) is not available to act as an adjudicator within a reasonable time, the earliest practical date or dates on which another Provincial Court judge is available to preside as the adjudicator at a new public hearing in respect of the matter.

(6) The chief judge of the Provincial Court must assign a Provincial Court judge to preside as adjudicator at any public hearing or continuation set under subsection (4) or (5).

(7) Subject to subsection (8), at least 15 business days before the scheduled date for a public hearing or continuation, the police complaint commissioner must serve the

respondent, complainant and discipline authority with written notice of the date, time and place of the hearing.

(8) If service cannot, after reasonable efforts, be effected on a complainant under subsection (7), the police complaint commissioner may provide the notice referred to in that subsection by double registered mail to the complainant's last address known to, or on record with, the police complaint commissioner.

Public hearing procedures

61 (1) In this section, "**commission counsel**" means counsel appointed by the police complaint commissioner under subsection (2).

(2) The police complaint commissioner must appoint counsel to present to an adjudicator the case relative to the alleged discipline defaults respecting a public trust complaint.

(3) For the purpose of a public hearing, commission counsel may

(a) call any witness who, in commission counsel's opinion, has relevant evidence to give, whether or not the witness was interviewed during the original investigation, and

(b) introduce into evidence any record, including, without limitation, any record of the proceedings concerning the complaint up to the date of the hearing.

(4) For the purpose of a public hearing,

(a) the respondent may examine or cross examine witnesses,

(b) the complainant and respondent may make oral or written submissions, or both, after all of the evidence is called, and

(c) the complainant and respondent may be represented by private counsel or an agent who may act on behalf of the complainant or respondent, as the case may be, under paragraphs (a) and (b).

(5) A public hearing must be open to the public unless, on the application of the complainant or respondent, the adjudicator orders that some or all of the hearing be held in private to protect a substantial and compelling privacy interest of one or more of the persons attending the hearing.

(6) The adjudicator must decide whether each alleged discipline default respecting the complaint has been proved on the civil standard of proof and may do one or more of the following:

(a) find that all, part or none of the alleged discipline default has been proved on the civil standard of proof;

(b) impose any disciplinary or corrective measures that may be imposed by a discipline authority;

(c) affirm, increase or reduce the disciplinary or corrective measures proposed by the discipline authority.

(7) Within 10 business days after reaching a decision under subsection (6), the adjudicator must provide notice of that decision to the complainant, respondent, discipline authority and police complaint commissioner.

(8) In conducting a public hearing, the adjudicator has the protections, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Compellability

61.1 (1) A respondent who is subject to a public trust complaint is not compellable to testify as a witness at a discipline proceeding, or at a public hearing, in respect of that complaint, but an adverse inference may be drawn from the respondent's failure to testify at the discipline proceeding or at the public hearing.

(2) Subject to the law of privilege, all witnesses, including, without limitation, municipal constables other than the respondent, are compellable at proceedings under this Part.

(3) Municipal constables, chief constables and deputy chief constables may be compelled to make statements

(a) in internal discipline proceedings, and

(b) at public hearings and inquiries under this Act.

(4) Nothing in this Act limits the rights of any person to the protection provided by the *Canadian Charter of Rights and Freedoms* against the use of voluntary or compelled statements in subsequent criminal or civil proceedings.

Appeal

62 (1) An appeal on a question of law lies to the Court of Appeal, with leave of a justice of the Court of Appeal, from a decision of an adjudicator under section 61 (6).

(2) Technical errors as to form, failure to file or to give notice on time and other procedural errors of a minor nature do not go to jurisdiction and may not be appealed to the Court of Appeal on any ground, unless the error prejudiced a fair determination of the issues at the public hearing.

Division 5 -- Service or Policy Complaints

Service or policy complaints

63 (1) Within 10 business days after making or confirming a characterization of a complainant's complaint as a service or policy complaint under section 52.1 (6), the police complaint commissioner must send a copy of the record of complaint to the board having authority over the municipal police department in respect of which the complaint is made.

(2) A discipline authority or an adjudicator who, while considering a conduct complaint, determines that the complaint also includes a service or policy complaint must, within 15 business days after that determination, notify the following of that determination:

(a) the board having authority over the municipal police department to which the complaint relates;

(b) the police complaint commissioner.

(3) If, in reviewing a complainant's complaint, the police complaint commissioner concludes that the complaint includes a service or policy complaint, the police complaint commissioner must notify the board having authority over the municipal police department to which the complaint relates, and the police complaint commissioner may include in the notice any recommendations that the police complaint commissioner considers advisable.

Investigation of service or policy complaints

63.1 (1) On receiving a copy of the record of complaint under section 63 (1) or a notice of a service or policy complaint under section 63 (2) or (3), the board having authority over the municipal police department to which the complaint relates must promptly do one or more of the following:

(a) request the chief constable of the municipal police department in respect of which the complaint is made to investigate and report on the complaint;

(b) initiate a study, concerning the complaint, with or without the assistance of the director, the Ministry of Attorney General or another public body;

(c) initiate an investigation into the complaint;

(d) dismiss the complaint with reasons;

(e) take any other course of action the board considers necessary to respond adequately to the complaint.

(2) The police complaint commissioner may recommend that the board initiate an investigation into a service or policy complaint if the board does not choose to do so under subsection (1).

(3) Within 30 days after initiating an action under subsection (1), the board must notify the complainant, the director and the police complaint commissioner regarding the course of action that is being taken.

(4) The police complaint commissioner may request a status report from the board regarding the progress of an investigation or study concerning a service or policy complaint, and the police complaint commissioner must forward to the complainant a copy of any report the police complaint commissioner receives in response to that request.

(5) At the conclusion of an investigation or study under this section, the board must send to the complainant, the director and the police complaint commissioner

(a) an explanation of the course of action decided on under subsection (1) in respect of the service or policy complained of, and

(b) a detailed summary of the results of any investigation or study undertaken under subsection (1).

(6) A complainant who is dissatisfied with the board's decisions as disclosed under subsection (5) may ask the police complaint commissioner to review the decisions.

(7) Whether or not a complainant has asked for a review under subsection (6), the police complaint commissioner may review the decisions of a board under this section and may recommend to the board further investigation, study, courses of action or changes to service or policy.

(8) The police complaint commissioner must include in the police complaint commissioner's annual report any recommendations made to boards under subsection (7) and may comment on the responses received, if any.

(9) Despite anything in this section, the police complaint commissioner may

(a) recommend that the director exercise one or more of the director's functions under this Act, or

(b) recommend that the Attorney General initiate an inquiry under the *Inquiry Act*.

Division 6 -- Internal Discipline Complaints

Internal discipline complaints

64 (1) For the purposes of internal discipline complaints, the discipline authority must establish procedures, not inconsistent with this Act, for imposing all disciplinary and corrective measures for those complaints.

(2) The procedures established under subsection (1) take effect after

(a) a copy of the procedures is filed with the police complaint commissioner, and

(b) the board having authority over the municipal police department with respect to which the procedures are established approves of the procedures.

(3) For the purpose of internal discipline complaints, the discipline authority, the board and any arbitrator that may be appointed under the grievance procedure of the collective agreement may use, but are not restricted by, the Code of Professional Conduct

(a) to determine standards against which the conduct of a municipal constable, chief constable or deputy chief constable may be judged, and

(b) to impose disciplinary or corrective measures.

(4) The discipline authority must provide the police complaint commissioner with a copy of

(a) any recommendation on disciplinary or corrective measures arising from an internal discipline complaint, and

(b) the final decision reached by the discipline authority, by the board or by an arbitrator respecting an internal discipline complaint.

(5) If a municipal constable, chief constable or deputy chief constable is alleged to have committed an act or to have omitted to do an act and the act or omission would, if proved, constitute a disciplinary default, the discipline authority may deal with the allegation as a matter of internal discipline under this Division if

(a) the police complaint commissioner has not, under section 54 (6) (a) or (8) or 55 (3), ordered an investigation into the act or omission and has not arranged a public hearing in respect of that act or omission, and

(b) one or more of the following applies to the allegation:

(i) the act or omission does not constitute a public trust default;

(ii) a record of complaint was not lodged under section 52 in respect of the act or omission;

(iii) a record of complaint was lodged under section 52 in respect of the act or omission but the complainant has filed a notice of withdrawal under section 52.2 and the discipline authority has ceased to process the complaint under Division 4.

(6) On request of the police complaint commissioner, a discipline authority must provide any additional information about an internal discipline complaint that is in the possession or control of the municipal police department to which the complaint relates.

(7) If the police complaint commissioner concludes on the basis of information received that an internal discipline complaint should be dealt with as a public trust complaint, the police complaint commissioner may order a further investigation, a public hearing or both.

(8) Whether or not an act or omission of a municipal constable, chief constable or deputy chief constable is a disciplinary default, the discipline authority may determine any issues of competence and suitability to perform police duties that arise out of that act or omission, whether or not a complaint is lodged in respect of that act or omission.

Division 7 -- General

Multiple complaints

64.1 (1) In this section, "**compound complaint**" means a record of complaint lodged under section 52 that is comprised of 2 or more of the following components:

(a) a public trust complaint against a municipal constable;

- (b) an internal discipline complaint against a municipal constable;
- (c) a public trust complaint against a chief constable or a deputy chief constable;
- (d) an internal discipline complaint against a chief constable or a deputy chief constable;
- (e) a service or policy complaint.

(2) Each component of a compound complaint must be processed as a separate complaint under Division 3 and whichever of Divisions 4, 5 and 6 is applicable to that component.

Criminal prosecutions and civil remedies not prohibited

65 (1) Nothing in this Act or the regulations prohibits

- (a) civil or criminal proceedings against a respondent, or
- (b) proceedings under the *Labour Relations Code* as to the interpretation, application or operation of a collective agreement.

(2) A decision by Crown counsel not to commence or proceed with criminal charges does not prohibit proceedings under this Act.

(3) Acquittal on a criminal charge arising out of the same facts and circumstances does not prohibit proceedings under this Act.

(4) Proceedings under this Act may be suspended until the conclusion of criminal proceedings brought against a municipal constable, chief constable or deputy chief constable or a complainant, and the period of that suspension of proceedings must not be counted for the purpose of proceedings under this Act.

Complaints made in confidence

65.1 (1) Municipal constables are entitled to report to the police complaint commissioner the alleged misconduct of any other municipal constable, including the alleged misconduct of a chief constable or a deputy chief constable, if the conduct in question could be the subject matter for a public trust complaint or an internal discipline complaint.

(2) A person who is not a municipal constable may, in submitting a complaint under section 52, request that the complaint be kept in confidence and, in that event, subsections (3) to (8) of this section apply as if the complaint were a report made under subsection (1) of this section.

(3) A report under this section may be made orally or in writing to the police complaint commissioner and, subject to subsection (7), may be made in confidence and without attribution as to source.

(4) Subject to subsection (7), an oral or written statement to the police complaint commissioner, made under conditions of confidentiality, must not be released or revealed

to any other body or person in a manner that is likely to identify the person who made the statement, unless the person consents to the release or revelation.

(5) A record of a report or of any of the allegations constituting a report made in confidence under this section is inadmissible as evidence at any discipline proceeding or criminal proceeding without the consent of the person who made the report.

(6) The allegations constituting a report made in confidence under this section must not be processed under Division 4 or 5 and the person who made the report does not have any rights afforded to complainants under Divisions 3, 4 and 5, including, without limitation, the right to be informed of the results of the investigation into his or her allegations or to have a public hearing convened respecting those allegations.

(7) The police complaint commissioner may

(a) report to Crown counsel any allegations constituting a report made in confidence under this section, and

(b) order a discipline authority to conduct an investigation into the allegations constituting a report made in confidence under this section and, in that event, the discipline authority must take steps that are practical in the circumstances to investigate the complaint.

(8) Nothing in this section

(a) prohibits Crown counsel from proceeding with criminal charges against a respondent, or

(b) limits or excuses an officer's duty to make a statement for or to testify in an investigation, discipline proceeding, public hearing or inquiry that is conducted or held in relation to another officer under this Act.

Harassment prohibited

65.2 A person who makes a report about the conduct of an officer or submits a complaint under this Act must not be harassed, intimidated or retaliated against for making that report or submitting that complaint.

Service record of discipline

65.3 (1) The service record of discipline of a respondent must record the complaint dispositions in respect of all complaints against the respondent whether processed as public trust complaints or as internal discipline complaints.

(2) The service record of discipline of a respondent must be kept by the discipline authority in a secure place separate from the respondent's personnel file and the service record of discipline, without the discipline authority's authorization or the respondent's consent, may be disclosed only to the following persons:

(a) the respondent;

- (b) the discipline authority;
- (c) the police complaint commissioner;
- (d) an adjudicator;
- (e) if the respondent is a member of a police union, an arbitrator appointed under the collective agreement.

(3) If a disciplinary or corrective measure is imposed on or agreed to by a respondent, and the measure includes treatment, counselling or some other program, the respondent's service record of discipline must be updated by the discipline authority to indicate whether the treatment, counselling or other program was completed.

(4) Nothing in this section precludes the internal use of a service record of discipline for non-disciplinary action, including, without limitation, promotion, transfer and reassignment.

Appointment of representative for complainants

66 (1) Subject to subsection (3), the police complaint commissioner may appoint a representative for a complainant as follows:

- (a) if the complainant is under 19 years of age, a parent or legal guardian or, if no parent or legal guardian is available or willing to act, a responsible adult;
- (b) if the police complaint commissioner considers that the complainant is unable to assert his or her rights under this Act because of physical or mental disability, an adult of the complainant's choice or, if no such adult is identifiable, available or willing to act, a responsible adult;
- (c) if the complainant dies after lodging a complaint, the administrator or executor of the estate of the complainant or, if no administrator or executor is available or willing to act, a responsible adult.

(2) A representative appointed under subsection (1) has all of the rights and responsibilities available to a competent adult complainant under this Act.

(3) In deciding whether to appoint a representative under this section, the police complaint commissioner must consider

- (a) whether the complainant is capable of exercising the rights available to a complainant under this Part without the assistance of a representative, and

- (b) the wishes of the complainant.

Freedom of Information and Protection of Privacy Act does not apply

66.1 Except as provided by this Act, the *Freedom of Information and Protection of Privacy Act* does not apply to any record that

(a) arises out of or is otherwise related to the making, submitting, lodging or processing of a conduct complaint under this Part, and

(b) is created on or after the conduct complaint is made, submitted or lodged.

Part 10 -- General

Evidentiary effect of documents and records

67 In any proceeding, an order, rule, report, record or certificate signed by the police complaint commissioner, a discipline authority, as defined in section 46, or by the director or by a member of the board or committee that made the order, rule, report, record or certificate, is evidence of

(a) the facts stated in the order, rule, report, record or certificate, and

(b) the authority of the police complaint commissioner, discipline authority, director or member who signed the order, rule, report, record or certificate, without proof of that person's appointment, authority or signature.

Requests for temporary assistance

68 (1) The provincial police force, a municipal police department or a designated policing unit must, on receiving a request for temporary assistance made by another police force, police department or designated policing unit, assign to the requesting police force, police department or designated policing unit the officers and equipment practicable to assign for the purpose.

(2) A police force, police department or designated policing unit that requests and receives assistance under subsection (1) is responsible for all costs of that assistance.

Meetings and hearings open to public

69 (1) Subject to subsection (2), every meeting and hearing of a board or a committee must be open to the public.

(2) If it believes that any of the following matters will arise in a meeting or hearing held by it, a board or committee may order that the portion of the meeting during which the matter will arise be held in private:

(a) a matter concerning public security, the disclosure of which could reasonably be expected to seriously impair effective policing or law enforcement;

(b) a matter concerning a person's financial or personal affairs, if the person's interest in the matter outweighs the public's interest in the matter;

(c) a matter concerning labour contract discussions, labour management relations, layoffs or another personnel matter;

(d) a matter concerning information that a person has requested he or she be allowed to give in private to the board or committee.

(3) On making an order under subsection (2), the board or committee must promptly submit to the minister a copy of the minutes of the meeting or hearing and a statement of the reasons for holding a portion of the meeting or hearing in private.

Oaths and affirmations

70 (1) A person must take an oath or affirmation in the prescribed form before that person assumes office, exercises any power or performs any duty or function as any of the following under this Act:

(a) an officer;

(b) a bylaw enforcement officer;

(c) a member of a board or committee;

(d) the director;

(e) any person employed or retained by, or engaged and retained by, the director.

(2) The minister may prescribe different forms of oaths and affirmations for provincial constables, auxiliary constables, designated constables, municipal constables, special municipal constables, special provincial constables, enforcement officers, bylaw enforcement officers and members of boards and committees.

(3) The minister may, by regulation, require that an employee of the provincial police force take an oath or affirmation in the form and manner the minister prescribes.

(4) An oath or affirmation required to be taken under this section must be filed with the person designated in the regulations.

(5) Subsection (3) does not apply to a person referred to in subsection (2).

Minutes and records

71 Every board and committee must keep minutes of its meetings and hearings and records of its inquiries.

Ombudsman

72 The *Ombudsman Act* does not apply to this Act or the regulations.

Service of notices

73 (1) A notice required under this Act must be

(a) in writing, and

(b) served or mailed by registered mail.

(2) If a notice under this Act is mailed by registered mail, the addressee is deemed to have received the notice on the fifth day after the date of mailing.

Power to make regulations

74 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) providing for or granting financial aid to the administration and course of study in a police training school or other educational institution;
- (b) developing procedures for handling complaints from members of the public against a class of officer;
- (c) for the government of police forces, police departments, designated policing units and designated law enforcement units;
- (d) prescribing the minimum salary or other remuneration and allowances to be paid to members of police forces, police departments, designated policing units or designated law enforcement units;
- (e) prescribing the minimum remuneration to be paid to the members of boards or committees who are designated by the Lieutenant Governor in Council or appointed by the minister;
- (f) prescribing the minimum number of members of police forces, police departments and designated policing units that are to be employed
 - (i) on a basis of population, area or property assessment,
 - (ii) on any combination of them, or
 - (iii) on another basis;
- (g) prescribing requirements respecting offices, buildings, places of detention, and equipment and supplies to be provided by municipalities;
- (h) prescribing or regulating the number of meetings to be held by boards and committees, the times and places they are to be held and the public notices and methods to be employed regarding the meetings;
- (i) prescribing the records, returns, books and accounts to be kept and made by police forces, police departments, designated policing units, designated law enforcement units, or a member of any of them;
- (j) prescribing the method of accounting for fees, costs and other money that is received by an officer;

- (k) providing for the payment of fees and expenses to witnesses at hearings or appeals under this Act;
- (l) prescribing the deployment and department of auxiliary constables or special provincial constables;
- (m) prescribing the administration of rewards offered in respect of an offence;
- (n) providing for the disposal of property where the provincial police force, a designated policing unit or designated law enforcement unit obtains custody of stolen or abandoned personal property;
- (o) prescribing the procedures to be followed at public hearings, as defined in section 46;
- (p) prescribing a code of conduct applicable to a class of officers, for the purposes of
 - (i) Part 9 or any disciplinary matter, and
 - (ii) establishing guidelines concerning appropriate disciplinary or corrective measures for officers of that class;
- (q) making all or any part of Part 9 applicable, with any modifications that the minister considers necessary or advisable, to a class of officers, other than municipal constables;
- (r) prescribing an entity for the purpose of paragraph (d) of the definition of "entity" in section 1;
- (s) making all or any part of sections 18.1 and 18.2 applicable, with any modifications that the Lieutenant Governor in Council considers necessary or advisable, to a ministry, as if the ministry were an entity;
- (t) respecting the use of force by a class of officers in the performance of their duties, including, without limitation,
 - (i) the training or retraining in the use of physical force
 - (A) in emergency response situations, pursuits or forcible entries, and
 - (B) as a means of restraining an individual, and
 - (ii) the training or retraining in the use of
 - (A) firearms, ammunition, batons, capsicum spray, physical restraint devices or other weapons and equipment,
 - (B) police dogs, horses and other animals, and
 - (C) motor vehicles when in pursuit or in emergency response situations;
- (u) governing the qualifications, ranks, conduct, training, retraining, dress, duties, suspension, promotion, dismissal, punishment or discipline of a class of officers.

(3) For the purposes of regulations under subsections (2) and (5), the minister may make regulations prescribing classes of officers and the classifications may be based on the different ranks, duties or functions of different officers, the different employers of different officers, the different nature of policing or law enforcement services provided by different officers, or on the following classes of officers under this Act:

- (a) provincial constable;
- (b) special provincial constable;
- (c) designated constable;
- (d) municipal constable;
- (e) special municipal constable;
- (f) auxiliary constable;
- (g) enforcement officer.

(4) A regulation under subsection (2) (b), (p), (q), (t) or (u) or subsection (5) may prescribe different regulations for different classes of officers.

(5) The minister may make regulations prescribing the standards for training, or for retraining, to be met by each officer of a class of officers.

Offence Act

75 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

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