

1976 Bill 83

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 83

THE POLICE AMENDMENT ACT, 1976

THE SOLICITOR GENERAL

First Reading

Second Reading

Third Reading

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BILL 83

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THE POLICE AMENDMENT ACT, 1976

(Assented to _____, 1976)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. *The Police Act, 1973 is hereby amended.*
2. *Section 4 is amended*
 - (a) *as to subsection (1) by adding after the words "by the Lieutenant Governor in Council" the words "of whom at least one member shall be a member of the judiciary", and*
 - (b) *by striking out subsection (2) and by substituting therefor the following subsection:*
 - (2) The initial term for which a member of the Board may be appointed shall not exceed three years but he may be reappointed for one additional term which shall not exceed three years.
3. *Section 6, subsection (1) is amended by adding after the words "one of the members of the Board" the words "who is a member of the judiciary".*
4. *Section 23, subsection (1) is amended by striking out the words "unless it has entered into an agreement under section 36, in which case the establishment of a commission shall be at the option of the urban municipality".*

Explanatory Notes

1. This Bill will amend chapter 44 of the Statutes of Alberta, 1973.

2. Section 4 presently reads:

4. (1) The Lieutenant Governor in Council may establish a board to be known as the "Law Enforcement Appeal Board" composed of not more than three members appointed by the Lieutenant Governor in Council.

(2) No member of the Board shall be appointed for a term of more than three years but any member is eligible for reappointment.

3. This amendment will provide that only a judge may be designated as chairman.

4. This amendment will make it mandatory for an urban municipality to establish a police commission. Section 23(1) reads:

23. (1) The council of an urban municipality having a population of more than 1,500 persons shall provide for a municipal police commission unless it has entered into an agreement under section 36, in which case the establishment of a commission shall be at the option of the urban municipality.

5. Section 26 is amended by renumbering the section as subsection (1) and by adding thereafter the following subsection:

(2) The commission may make rules not inconsistent with the provisions of this Act governing the operation of a police force of an urban municipality including

- (a) the conduct, dress, deportment and duties of members of the police force,
- (b) the prevention of neglect or abuse in the discharge of duties,
- (c) the efficient discharge of duties by the members of the police force, and
- (d) punishment for contraventions of the rules.

6. Section 31, subsection (2) is amended by adding after the words "for which he is appointed" the words "or when acting pursuant to a direction under subsection (3)".

7. Section 33 is struck out and the following section is substituted therefor:

33. (1) Complaints, including those received by the Solicitor General, the Board, the commission, or, where there is no commission, the council, respecting the conduct or performance of duty of any member or members of a police force other than the chief of police, shall be directed in the first instance to the chief of police or the Commanding Officer in Alberta of the Royal Canadian Mounted Police, as the case may be, for investigation and such action as he considers advisable.

(2) Where practical a complaint shall be in writing and signed by the complainant.

(3) The chief of police or the Commanding Officer in Alberta of the Royal Canadian Mounted Police, as the case may be, shall cause each complaint to be investigated and as soon as possible after receipt of the complaint shall inform the complainant in writing as to whether he has found all or any portion of the complaint to be justified and whether disciplinary action is to be taken, and in all cases where the chief of police or Commanding Officer of the Royal Canadian

5. This amendment will authorize the police commission to make rules governing the operation of the police force.

6. This amendment will clarify the authority of police officers acting outside their territorial jurisdictions. Section 31(2) and (3) read:

(2) A member of a municipal police force has authority throughout Alberta in the execution of his duties as a member of the municipal police force for which he is appointed.

(3) The Solicitor General may at any time, with the verbal or written consent of the chairman of the commission where there is one, or if none, of the mayor of an urban municipality, direct a member of the municipal police force to serve in any part of Alberta outside the boundaries of the municipality.

7. Section 33 presently reads:

33. (1) Complaints, including those received by the Solicitor General or the commission, respecting the conduct or performance of duty of any member or members of a police force other than the chief of police, shall be directed in the first instance to the chief of police for investigation and such action as he considers advisable.

(2) Complaints, including those received by the Solicitor General, the Board, the commission or, where there is no commission, the council respecting the conduct or performance of duty of any member or members of the Royal Canadian Mounted Police shall be directed in the first instance to the Commanding Officer of the Royal Canadian Mounted Police in Alberta for investigation and such action as he considers advisable.

(3) Where practical a complaint shall be in writing and signed by the complainant.

Mounted Police has found all or any portion of the complaint not to be justified he shall inform the complainant of his right of appeal to the Board.

(4) The complainant may, within 30 days after receipt of the information referred to in subsection (3), file with the secretary of the Board a notice of appeal setting forth the grounds upon which the appeal is based.

(5) Any member of a municipal police force who feels himself aggrieved by disciplinary action taken against him under this Act or the regulations or the rules of the commission may, within 30 days after being advised of the disciplinary action, file with the secretary of the Board a notice of appeal setting forth the grounds upon which the appeal is based.

(6) The chairman of the Board may, before or after the expiration of the time for service of a notice of appeal, extend the time of service for a further period not exceeding 30 days.

(7) The commission may request that the Board investigate the whole or any portion of a complaint held by the chief of police or the Commanding Officer of the Royal Canadian Mounted Police under subsection (3) not to be justified.

(8) Notwithstanding subsection (1), the Board

(a) may, upon its own motion, conduct an investigation respecting any complaint;

(b) shall, upon the direction of the Solicitor General, conduct an investigation into any matter relating to the discipline or conduct of any member or members of a police force.

(9) The chief of police or the Commanding Officer in Alberta of the Royal Canadian Mounted Police, as the case may be, shall, when requested to do so, supply the Board or commission with copies of all investigation reports, statements and correspondence sent and received with respect to a complaint.

(4) The chief of police or the Commanding Officer of the Royal Canadian Mounted Police, as the case may be, shall cause each complaint to be investigated and as soon as possible after receipt of the complaint shall inform the complainant in writing as to whether he has found all or any portion of the complaint to be justified and whether disciplinary action is to be taken and in all cases where the chief of police or Commanding Officer of the Royal Canadian Mounted Police, as the case may be, has found all or any portion of the complaint not to be justified he shall inform the complainant of the provisions of this Act with respect to the complainant's right of appeal to the Law Enforcement Appeal Board.

(5) The complainant may, within 30 days after receipt of the information referred to in subsection (4), file with the secretary of the Board a notice of appeal setting forth the grounds upon which the appeal is based.

(6) The commission may request that the Board investigate the whole or any portion of a complaint held by the chief of police under subsection (4) not to be justified.

(7) The Board may undertake an inquiry respecting any complaint on its own motion.

(8) Any member of a municipal police force who feels himself aggrieved by disciplinary action taken against him under this Act or the regulations may appeal to the Board in accordance with the regulations.

(9) The chief of police shall, when requested to do so, supply the Board or commission with copies of all investigation reports, statements and correspondence sent and received with respect to a complaint.

(10) Where an appeal is filed under this section, any disciplinary action taken as a result of the decision from which the appeal is taken shall be stayed without further order until the appeal is terminated.

(11) In conducting an investigation or determining an appeal under this section the Board may make its decision on the record, or, where it considers it necessary, may hear evidence.

(12) In determining an appeal under subsection (4) or (5) the Board may

- (a) dismiss the appeal, or
- (b) allow the appeal, or
- (c) vary the punishment imposed, or
- (d) affirm the punishment imposed, or
- (e) refer the matter back to the chief of police or the Commanding Officer of the Royal Canadian Mounted Police for review, or
- (f) impose punishment in accordance with regulations or rules made under the authority of this Act.

(13) The Board shall in writing inform

- (a) the complainant in the case of appeal under subsection (4) or the appellant in the case of appeal under subsection (5),
- (b) the commission, and
- (c) the Solicitor General

as to the decision of the Board.

(14) When the Board is satisfied that a prima facie case appears that the conduct of the member or members of a police force who are involved in the investigation or appeal may constitute an offence under an Act of the Parliament of Canada or the Legislature of Alberta, the investigation or appeal shall be adjourned indefinitely and the Board shall forthwith inform the Attorney General of its conclusion.

(10) The Commanding Officer of the Royal Canadian Mounted Police shall, when requested to do so, supply the Board with copies of all investigation reports, statements and correspondence sent or received with respect to a complaint.

(11) In conducting an investigation or determining an appeal under this section the Board may make its decision on the record or, where it considers it necessary, may hear evidence.

(12) If the Board determines that a complaint or any portion of a complaint is justified, it shall refer the matter back to the chief of police or the Commanding Officer of the Royal Canadian Mounted Police, as the case may be, for the imposition of such punishment as he considers necessary.

(13) A complainant, in the case of an appeal under subsection (5), shall be advised in writing as to the decision of the Board.

(14) In determining an appeal under subsection (8) the Board may

(a) dismiss the appeal, or

(b) allow the appeal, or

(c) vary the punishment imposed, or

(d) affirm the punishment imposed, or

(e) refer the matter back to the chief of police for review.

(15) Notwithstanding subsection (14), the Board may continue the investigation, hearing or appeal into matters concerning members of a police force other than those who may have committed an offence.

8. Section 43, subsection (1) is amended by adding after clause (e) the following clauses:

(e.1) governing investigations by or appeals to the Board;

(e.2) governing discipline within police forces, including procedures and penalties;

9. This Act comes into force on the day upon which it is assented to.

8. Regulations by the Lieutenant Governor in Council.