

1983 BILL 93

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First Session, 20th Legislature, 32 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 93**

**POLICE OFFICERS COLLECTIVE BARGAINING ACT**

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THE MINISTER OF LABOUR

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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# BILL 93

1983

## POLICE OFFICERS COLLECTIVE BARGAINING ACT

(Assented to \_\_\_\_\_, 1983)

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

Definitions

**1** In this Act,

- (a) “bargain collectively” and “collective bargaining” mean to negotiate or negotiation with a view to the conclusion of a collective agreement or the revision or renewal of a collective agreement;
- (b) “bargaining agent” means
  - (i) the police association that represents a majority of the police officers who hold the rank of inspector or higher, excluding the chief constable and deputy chief constables, or
  - (ii) the police association that represents a majority of the police officers who hold ranks lower than that of inspector;
- (c) “bargaining unit” means
  - (i) the police officers of a municipal police force who hold the rank of inspector or higher, excluding the chief constable and deputy chief constables, or
  - (ii) the police officers of a municipal force who hold ranks lower than that of inspector;

(d) “Board” means the Labour Relations Board under the *Labour Relations Act*;

(e) “collective agreement” means an agreement in writing between a municipality and a bargaining agent containing terms or conditions of employment;

(f) “Director” means the person appointed pursuant to the *Public Service Act* as the Director of Mediation Services;

(g) “dispute” means a difference or apprehended difference arising in connection with the entering into, renewing or revising of a collective agreement;

(h) “lockout” includes

- (i) the closing of a place of employment by a municipality,
- (ii) the suspension of duties by a municipality, or
- (iii) a refusal by a municipality to continue to employ police officers,

for the purpose of compelling the police officers of a municipal police force or to aid another employer in compelling the employees of that employer to accept terms and conditions of employment;

(i) “Minister” means the Minister of Labour;

(j) “open period” means, with respect to a municipality and a bargaining agent

- (i) if no collective agreement is in effect, any time, or
- (ii) if a collective agreement is in effect, any time after notice to commence collective bargaining is served under section 5;

(k) “police association” means an association of either

- (i) the police officers of a municipal police force who hold the rank of inspector or higher, excluding the chief constable and deputy chief constables, or
- (ii) the police officers of a municipal police force who hold ranks lower than that of inspector

that is limited to members of one municipal police force and has collective bargaining among its objects;

(l) “police officers” means the members of the municipal police force appointed for policing duties and duties incidental to those duties;

(m) “strike” includes

- (i) a cessation of work or duties,
- (ii) a refusal to work or carry out duties, and
- (iii) a refusal to continue to work or carry out duties,

by 2 or more police officers acting in combination or in concert or in accordance with a common understanding for the purpose

of compelling the municipality to agree to terms or conditions of service or to aid other employees to compel their employer to accept terms and conditions of service or employment;

(n) “trade union” means a trade union within the meaning of the *Labour Relations Act* or the *Public Service Employee Relations Act*, but does not include a police association.

## PART 1

### COLLECTIVE BARGAINING

Right to organize  
and bargain  
collectively

**2(1)** All police officers, except the chief constable and deputy chief constables, have the right

(a) to be members of a police association and to participate in its lawful activities, and

(b) to bargain collectively with the municipality to which they are appointed through a bargaining agent,

except that no police officer shall remain or become a member of a trade union or of an organization that is affiliated, directly or indirectly, with a trade union.

(2) Notwithstanding subsection (1), if an application by a local authority within the meaning of the *Special Forces Pension Act* to bring its police officers under that Act has been granted, there shall be no right to bargain collectively for pension benefits.

Strike and  
lockout  
prohibited

**3(1)** Notwithstanding section 2, no police officer, bargaining agent or person acting on behalf of a bargaining agent shall strike, cause a strike or threaten to cause a strike.

(2) No municipality shall lock out or threaten to lock out members of a bargaining unit.

Collective  
bargaining by  
municipality

**4(1)** A municipality may

(a) bargain collectively with a bargaining agent, and

(b) bargain through a committee appointed to bargain on its behalf.

(2) A municipality may authorize the municipal police commission appointed by the municipality under the *Police Act* to bargain collectively with a bargaining agent on its behalf.

Notice to initiate  
bargaining

**5(1)** Either the bargaining agent or the municipality may

(a) when no collective agreement is in force, at any time, or

(b) when a collective agreement is in force, not less than 30 and not more than 90 days preceding the expiry of the term of the collective agreement or within any longer period that may be provided for in the collective agreement,

by notice in writing require the other party to meet and bargain collectively.

(2) A notice to commence collective bargaining shall be served at least 10 days before the time fixed in the notice for the commencement of collective bargaining.

(3) When a notice to commence collective bargaining has been served pursuant to this section, the bargaining agent and the municipality, without delay, but in any event within 15 days after notice is served, shall

(a) meet and commence, or cause authorized representatives to meet and commence, to bargain collectively in good faith, and

(b) make every reasonable effort to enter into a collective agreement.

Effect of collective agreement

**6** A collective agreement entered into by a bargaining agent and a municipality, in so far as its provisions do not conflict with this Act, is binding on

(a) the bargaining agent and every member in the bargaining unit on whose behalf the agreement has been entered into, and

(b) the municipality.

## **PART 2 MEDIATION**

Appointment of mediator

**7(1)** During an open period

(a) either or both parties to a dispute may request the Director to appoint a mediator, or

(b) the Minister may require the Director to appoint a mediator,

to assist the parties in resolving the dispute.

(2) The Director

(a) may appoint a mediator if he receives a request under subsection (1)(a), and

(b) shall appoint a mediator if he is required to do so under subsection (1)(b).

(3) When a mediator is appointed, the dispute shall be referred to him and the parties notified accordingly.

Duties of mediator

**8(1)** A mediator shall, in any manner that he thinks fit, inquire into the dispute and endeavour to effect a settlement.

(2) During his inquiry the mediator shall

(a) hear any representations made to him by the parties to the dispute,

(b) mediate between the parties to the dispute, and

(c) encourage the parties to the dispute to effect a settlement.

**PART 3**  
**INTEREST ARBITRATION**

Request for  
interest  
arbitration board

**9(1)** If a dispute cannot be resolved, either or both parties to the dispute may make a request for the establishment of an interest arbitration board to

(a) the mediator, if one has been appointed with respect to the dispute, or

(b) the Director, if no mediator has been appointed with respect to the dispute.

(2) When he receives a request under subsection (1)(b), the Director shall appoint a mediator in accordance with section 7(2) and forward the request for the establishment of an interest arbitration board to the mediator.

(3) The mediator shall endeavour to effect a settlement in accordance with section 8 and shall, not later than 14 days after he receives a request under subsection (1) or (2),

(a) list the items in dispute and the items that have been settled by the parties, and

(b) forward the list and the request for the establishment of an interest arbitration board to the Minister.

Establishment  
of interest  
arbitration board

**10** When he receives a request for the establishment of an interest arbitration board, the Minister,

(a) if he considers it appropriate, may direct the parties to continue collective bargaining and may prescribe the procedure or conditions under which collective bargaining is to take place, or

(b) if he is satisfied that the dispute is appropriate to refer to an interest arbitration board, may establish an interest arbitration board in accordance with this Part.

Appointment  
of members

**11(1)** If the Minister decides to establish an interest arbitration board, he shall notify the parties to the dispute in writing accordingly and require each of them to appoint a person to act as a member of the interest arbitration board within 10 days of that notification.

(2) The 2 persons appointed under subsection (1) to act as members of an interest arbitration board shall appoint a 3rd person within 10 days of the date the 2nd person is appointed to act as a member and chairman of the interest arbitration board.

Appointments  
by Minister

**12(1)** If a party to the dispute fails to appoint a person as a member of an interest arbitration board, the Minister may appoint a person to act as a member.

(2) If the 2 persons appointed as members of an interest arbitration board fail to appoint a person to act as a member and chairman, the Minister may appoint a person to act as a member and chairman.

(3) The remuneration and expenses of the persons appointed under subsection (1) or (2) or section 11 shall be paid

- (a) in the case of a person appointed by a party to a dispute, by that party, and
- (b) in the case of the chairman or a person appointed by the Minister, by the Government.

(4) If a vacancy occurs in the membership of an interest arbitration board, it shall be filled in the same manner as provided for the appointment of the member or chairman, as the case may be.

(5) The members of an interest arbitration board have the powers, duties and immunities of a commissioner under the *Public Inquiries Act*.

(6) A judge of the Court of Appeal or of the Court of Queen's Bench may be appointed as a member of an interest arbitration board.

Terms of reference

**13** When 3 persons are appointed to act as members of an interest arbitration board, the Minister, by notice in writing to the chairman, shall

- (a) establish the members as an interest arbitration board, and
- (b) list the items in dispute to be resolved by the interest arbitration board.

Methods of arbitration

**14(1)** On receipt of a notice under section 13, the interest arbitration board shall inquire into the items in dispute and endeavour to effect a settlement.

(2) If the interest arbitration board is unable to effect a settlement, it shall consider the position of the parties on each item in dispute and determine what method or combination of methods of arbitration it shall implement to resolve any or all of the items in dispute.

(3) Without restricting the generality of subsection (2), the method or combination of methods of arbitration determined under that subsection may include the method of arbitration known as "final offer selection".

Matters to be considered

**15** To ensure that wages and benefits are fair and reasonable to the police officers and the municipality and are in the best interest of the public, the interest arbitration board

- (a) shall consider, for the period with respect to which the award will apply, the following:
  - (i) wages and benefits in private and public and unionized and non-unionized employment;
  - (ii) the continuity and stability of private and public employment, including
    - (A) employment levels and incidence of layoffs,
    - (B) incidence of employment at less than normal working hours, and
    - (C) opportunity for employment;
  - (iii) any fiscal policies that may be declared from time to time in writing by the Provincial Treasurer for the purposes of this Act,



and

(b) may consider, for the period with respect to which the award will apply, the following:

(i) the terms and conditions of employment in similar occupations outside the employer's employment taking into account any geographic, industrial or other variations that the board considers relevant;

(ii) the need to maintain appropriate relationships in terms and conditions of employment between different classification levels within an occupation and between occupations in the employer's employment;

(iii) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;

(iv) any other factor that it considers relevant to the matter in dispute.

Award

**16(1)** As soon as possible after a dispute is referred to it, and in any case within

(a) 20 days of the date it is established, or

(b) any longer time that may be agreed to by the parties to the dispute or fixed by the Minister,

the interest arbitration board shall make an award and in its award shall deal with each item in dispute.

(2) An award of a majority of the members of an interest arbitration board is an award of the interest arbitration board, but if there is no majority, the award of the chairman is the award of the interest arbitration board.

(3) The *Arbitration Act* does not apply to arbitration under this Part.

(4) Subject to subsection (5), no award, proceeding or decision of an interest arbitration board shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the interest arbitration board in any of its proceedings.

(5) An award, proceeding or decision of an interest arbitration board may be questioned or reviewed by way of an application for certiorari or mandamus if the application is filed with the Court not later than 30 days after the date of the award, proceeding or decision of the interest arbitration board.

Filing and service  
of award

**17(1)** On making an award the interest arbitration board shall

(a) file a copy of it with the Minister, and

(b) serve a copy of it on the parties to the dispute.

- (2) An award of an interest arbitration board is binding on
- (a) the bargaining agent and every member of the bargaining unit, and
  - (b) the municipality,

and the parties shall forthwith give effect to it.

(3) The terms of the award shall be included in a collective agreement.

(4) The Minister may publish an award in any manner he considers fit.

Incorporation  
of award

**18(1)** If either of the parties to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with section 17(3), the other party may prepare the agreement giving effect to

- (a) the award of the interest arbitration board, and
- (b) any other matters that are agreed by the parties,

and shall submit the agreement to the interest arbitration board to certify that the agreement accurately incorporates the award of that interest arbitration board.

(2) When an interest arbitration board receives a collective agreement pursuant to subsection (1) and is satisfied that the collective agreement gives effect to its award, the interest arbitration board shall certify the collective agreement as accurately incorporating its award.

(3) A collective agreement certified under subsection (2) is binding on the persons and organizations referred to in section 17(2).

Reconvening  
of interest  
arbitration board

**19(1)** If a question arises concerning the award of an interest arbitration board within 30 days from the date on which the award was made, the Minister, at the request of the parties, may direct the chairman of the interest arbitration board to reconvene the interest arbitration board for the purpose of deciding the question.

(2) When the interest arbitration board makes its decision under subsection (1), it shall forward a copy of the decision to the Minister and the parties to the dispute, and the decision is binding on the persons and organizations referred to in section 17(2).

#### **PART 4**

#### **GRIEVANCE PROCEDURE**

Grievance  
procedure

**20** Every collective agreement shall contain a method for the settlement of differences arising

- (a) as to the interpretation, application or operation of a collective agreement,
- (b) with respect to a contravention or alleged contravention of a collective agreement, and

(c) as to whether a difference referred to in clause (a) or (b) can be the subject of arbitration

between the parties to or persons bound by the collective agreement.

Model clauses

**21** If a collective agreement does not contain the provisions required under section 20, the collective agreement shall be deemed to contain those of the following provisions in respect of which it is silent:

*(a) If a difference arises between the parties to or persons bound by this collective agreement as to the interpretation, application, operation or contravention or alleged contravention of this agreement, other than a difference concerning a matter to which the Police Act or the regulations under that Act apply, or as to whether such a difference can be the subject of arbitration, the parties agree to meet and endeavour to resolve the difference.*

*(b) If the parties are unable to resolve a difference referred to in clause (a), either party may notify the other in writing of its desire to submit the difference to arbitration.*

*(c) The notice referred to in clause (b) shall*

*(i) contain a statement of the difference, and*

*(ii) specify a name or a list of names of the person or persons it is willing to accept as the single arbitrator.*

*(d) On receipt of a notice referred to in clause (b), the party receiving the notice*

*(i) if it accepts the person or one of the persons suggested to act as arbitrator shall, within 7 days, notify the other party accordingly, and the difference shall be submitted to the arbitrator, or*

*(ii) if it does not accept any of the persons suggested by the party sending the notice shall, within 7 days, notify the other party accordingly and send the name or a list of names of the person or persons it is willing to accept as the single arbitrator.*

*(e) If the party sending the notice referred to in clause (b) accepts the person or one of the persons suggested to act as arbitrator under clause (d)(ii), it shall within 7 days notify the other party accordingly, and the difference shall be submitted to the arbitrator.*

*(f) If the parties are unable to agree on a person to act as the single arbitrator, either party may request the Minister in writing to appoint a single arbitrator.*

*(g) The arbitrator may, during the arbitration, proceed in the absence of any party or person who, after notice, fails to attend or fails to obtain an adjournment.*

*(h) The arbitrator shall inquire into the difference and issue an award in writing, and the award is final and binding on the parties and on every employee affected by it.*

*(i) The parties agree to share equally the expenses of the arbitrator.*

*(j) The arbitrator shall not alter, amend or change the terms or conditions of the collective agreement.*

Appointment of  
single arbitrator

**22(1)** If the parties to a collective agreement that provides for the appointment of a single arbitrator are unable to agree on a person to act as a single arbitrator within 14 days of the notice requiring that the matter go to arbitration, or any longer period that the collective agreement may contain for the selection of a single arbitrator, either party may request the Minister in writing to appoint a single arbitrator.

(2) The parties shall share equally the remuneration and expenses of a single arbitrator appointed under subsection (1).

Appointment  
to grievance  
arbitration board

**23(1)** When a grievance arbitration board or other body is to be appointed or established pursuant to the terms of a collective agreement

(a) if either party to the collective agreement fails or neglects to appoint a member or members within 7 days of the written notice from the other party of the appointment of his member or members, the Minister shall, on the request of the other party, appoint a person or persons he considers fit for the purpose, and that person or those persons are deemed to be appointed by that party,

(b) if the appointed members fail to agree on a person to act as a chairman within 7 days from the date of the appointment of the last appointed member, the Minister shall appoint a chairman on the request of either party, and

(c) if the chairman or any member of the grievance arbitration board refuses to act or is or becomes incapable of acting, a new chairman or member may be appointed in the same manner as the original chairman or member was appointed.

(2) The remuneration and expenses of the person, persons or chairman appointed under subsection (1) shall be paid

(a) in the case of a member or members appointed under clause (a) or (c) of that subsection, by the party who fails or neglects to appoint the member or members, or

(b) in the case of the chairman appointed under clause (b) or (c) of that subsection, equally by the parties.

(3) When both parties agree, the time within which any of the appointments is to be made may be extended.

Ineligibility

**24** No person shall be appointed as an arbitrator or as a member of an arbitration board or other body who is directly affected by the difference or has been involved in an attempt to negotiate or settle the difference.

Speeding up  
decision

**25** When a difference has been submitted to an arbitrator, arbitration board or other body and one of the parties to the difference complains to the Board that the arbitrator, arbitration board or other body has failed to render an award within a reasonable time, the

Board may, after consulting with the parties and the arbitrator, arbitration board or other body,

(a) issue whatever directive it considers necessary in the circumstances to ensure that an award will be rendered in the matter without further undue delay, or

(b) appoint a new arbitrator, arbitration board or other body to act in the place of the arbitrator, arbitration board or other body complained against.

Court reference as to application of Police Act

**26(1)** Where a question arises between the parties over whether a matter is a difference as to the interpretation, application, operation, contravention or alleged violation of the collective agreement or is a matter to which the *Police Act* and the regulations under that Act apply, either party or any arbitrator before whom the matter arises on his own motion may refer the matter to a judge of the Court of Queen's Bench.

(2) The procedure in a reference shall be as determined by the judge.

(3) The judge on hearing the reference may do all or any of the following:

(a) make any finding of fact that is necessary;

(b) quash, vary or confirm any action taken by either party, or by the arbitrator;

(c) amend or waive any time limit as he sees fit;

(d) refer the matter back to the parties or to the arbitrator for further consideration.

(4) Subject to subsection (3)(c), the judge by his decision shall not alter, amend or change the terms of the collective agreement.

(5) The decision of the judge is binding on both parties and on all persons affected.

(6) The judge may make any award as to costs of the reference that he considers fit.

Difference when no collective agreement in effect

**27** If a difference arises between the municipality and the bargaining agent or a person bound by the collective agreement during the time between the date the collective agreement ceases to be in effect and the date on which a new or renewed collective agreement comes into force, the provisions that were contained in the collective agreement pursuant to sections 20 and 21 apply to the parties and the difference as if the collective agreement had remained in effect.

Majority decision and award

**28(1)** A decision of the majority of the members of a grievance arbitration board or other body is the decision of the grievance arbitration board or other body, but if there is no majority, the decision of the chairman governs, and his decision shall be deemed to be the award of the grievance arbitration board or other body.

(2) Every arbitrator, grievance arbitration board or other body shall, immediately on making the award, file a copy of the award with the Director.

(3) The award of an arbitrator, grievance arbitration board or other body shall be served on the parties to the difference by double registered mail or personally, and the arbitrator or the chairman of the grievance arbitration board or other body shall, at the request of any of the parties to the difference, make an affidavit or an affirmation that the award has been served.

(4) On receipt of the award of the arbitrator, grievance arbitration board or other body, the Director may publish the award in any manner he considers fit.

Effect of award on collective agreement

**29** No arbitrator, grievance arbitration board or other body shall by its award alter, amend or change the terms of a collective agreement.

Powers of arbitrator

**30(1)** The arbitrator or the chairman of the grievance arbitration board or other body may

(a) at any reasonable time enter any premises, other than a private dwelling, where work is being done or has been done by police officers or in which a municipality carries on business or an undertaking or where anything is taking place or has taken place concerning any difference submitted to him or it and inspect and view any work, material, machinery, appliance or article therein and question any person under oath in the presence of the parties or their representatives concerning any matter connected with the difference;

(b) authorize any person to do anything that the arbitrator or chairman of the grievance arbitration board or other body may do under clause (a) and to report to the arbitrator or grievance arbitration board thereon;

(c) correct in any award any clerical mistake, error or omission.

(2) An arbitrator, grievance arbitration board or other body

(a) may accept any oral or written evidence that it, in its discretion, considers proper, whether admissible in a court of law or not, and

(b) is not bound by the law of evidence applicable to judicial proceedings.

Attendance of witness and production of evidence

**31(1)** If, in the opinion of an arbitrator or the chairman of a grievance arbitration board or other body,

(a) the attendance of a person is required, or

(b) the attendance of a person to produce a document or other thing is necessary,

he may cause to be served on the person concerned a notice to attend or a notice to attend and produce a document or other thing, as the case may be, signed by the arbitrator or chairman.

(2) If a person fails or refuses to comply with

(a) a notice to attend, or

(b) a notice to attend and produce a document or other thing,

issued under subsection (1), a judge of the Court of Queen's Bench on application of the arbitrator or the chairman of the grievance arbitration board or other body, may issue a bench warrant requiring the attendance of the person or the attendance of the person to produce the document or other thing, as the case may be, before the arbitrator, grievance arbitration board or other body.

**Parties bound by award** **32** The award of an arbitrator, grievance arbitration board or other body is binding on the municipality, the members of the bargaining unit and the bargaining agent, and the municipality, members of the bargaining unit and the bargaining agent shall do or abstain from doing anything, as required of them by the award.

**Appeal of award** **33(1)** Subject to subsection (2), no award or proceeding of an arbitrator, grievance arbitration board or other body shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the arbitrator, grievance arbitration board or other body in any of his or its proceedings.

(2) The decision or proceedings of an arbitrator, grievance arbitration board or other body may be questioned, or reviewed by way of an application for certiorari or mandamus, if an application therefor is filed with the court not later than 30 days after the issuance of the award of the arbitrator, grievance arbitration board or other body.

**Enforcement of award** **34(1)** If any member of a bargaining unit, a bargaining agent or a municipality fails to comply with an award of an arbitrator or grievance arbitration board or other body, any municipality, bargaining agent or police officer affected by the award may, after 30 days from the date on which the award is made, or by the date provided in it for compliance, whichever is the later date, file a copy of the award with the clerk of the Court of Queen's Bench in the judicial district in which the cause of the proceedings before the arbitrator or grievance arbitration board or other body arose.

(2) On filing a copy of an award with the clerk of the Court pursuant to subsection (1), the award of an arbitrator, grievance arbitration board or other body has the same force and effect, and all proceedings may be taken on it, as if the award were an order of that Court.

**Arbitration Act** **35** The *Arbitration Act* does not apply to arbitrations under collective agreements.

## PART 5 UNFAIR PRACTICES

**Prohibited practices** **36(1)** No municipality and no person acting on behalf of a municipality shall

(a) participate in or interfere with the formation or administration of a police association, or

(b) contribute financial or other support to a police association.

(2) A municipality does not contravene subsection (1) by reason only that it

(a) in respect of a police association for the members of its police force

(i) permits a member or representative of a police association to confer with them during working hours or to attend to the business of the police association during working hours without deduction in the computation of time worked by the member and without deduction of wages in respect of the time so occupied,

(ii) provides free transportation to representatives of the police association for purposes of collective bargaining, the administration of a collective agreement and related matters, or

(iii) permits the police association to use his premises for the purposes of the police association,

or

(b) makes to a police association donations to be used solely for the welfare of the members of the police force and their dependants.

(3) No municipality and no person acting on behalf of a municipality shall

(a) impose any condition in a contract of service that restrains, or has the effect of restraining, a police officer from exercising any right conferred on him by this Act;

(b) deny to any member of a police association any pension rights or benefits to which the member would be entitled except for the dismissal of the employee contrary to this Act;

(c) seek by intimidation, threat of termination or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel a person to refrain from becoming or to cease to be a member, officer or representative of a police association;

(d) suspend, discharge or impose any financial or other penalty on a member of a police association or take any other disciplinary action against such a person, by reason of that person's having refused to perform an act prohibited by this Act;

(e) discriminate against a person in regard to service or conditions of service or intimidate, refuse to employ, dismiss or threaten to dismiss or in any other manner coerce a person or impose a pecuniary or other penalty on a person, because he

(i) is a member of a police association,

(ii) has been expelled or suspended from membership in a police association,

(iii) has testified or otherwise participated or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act,



(iv) has made or is about to make a disclosure that he may be required to make in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act,

(v) has made an application or filed a complaint under this Act, or

(vi) has exercised any right under this Act.

Prohibited practices

**37** No police association and no person acting on behalf of a police association shall

(a) require a municipality to terminate the service of a member of the police association because he has been expelled or suspended from membership in the police association;

(b) expel or suspend a person from membership in the police association or deny membership in the police association to a person by applying to him in a discriminatory manner the membership rules of the police association;

(c) take disciplinary action against or impose any form of penalty on a person by applying to him in a discriminatory manner the standards of discipline of the police association;

(d) deny a member or former member of the bargaining unit the right to be fairly represented by the police association with respect to his rights under the collective agreement;

(e) expel or suspend a person from membership in the police association or take disciplinary action against or impose any form of penalty on a person by reason of his having refused to perform an act that is contrary to this Act;

(f) discriminate against a person in regard to service or membership in a police association or intimidate or coerce a person or impose a pecuniary or other penalty on a person, because he

(i) has testified or otherwise participated or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act,

(ii) has made or is about to make a disclosure that he may be required to make in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act, or

(iii) has made an application or filed a complaint under this Act.

Complaint of unfair practice

**38(1)** Any municipality, member of a bargaining unit, bargaining agent or other person may make a complaint in writing to the Board that there has been or is a failure to comply with any provision of this Act that is specified in the complaint.

(2) The Board has no jurisdiction to hear a complaint made pursuant to section 37(b) or (c) unless the complainant establishes to the satisfaction of the Board that

(a) he presented an appeal to the police association in accordance with the appeal procedure established by the police association, and

(b) the police association failed to deal with the matter within 6 months of the date he made his appeal.

(3) Subsection (2) does not apply when the Board is satisfied that

(a) the action or circumstance giving rise to the complaint is such that the complaint should be dealt with without delay, or

(b) the police association has not given the complainant ready access to a reasonable appeal procedure.

Inquiry into  
complaint

**39(1)** When a complaint is made to the Board under section 38, the Board or a person designated by the Board may cause to be served a notice of the complaint on the person against whom the complaint is made.

(2) When a complaint is made, the Board or a person designated by the Board may appoint an officer to inquire into the complaint and endeavour to effect a settlement.

(3) When the Board or a person designated by the Board does not appoint an officer under subsection (2) or when the appointed officer is unable to effect a settlement within a period that the Board or the individual designated by the Board considers to be reasonable in the circumstances, the Board may inquire into the complaint.

(4) The Board may refuse to inquire into any complaint in respect of a matter that, in the opinion of the Board, could be referred by the complainant to an arbitrator, grievance arbitration board or other body pursuant to a collective agreement or to any other body pursuant to this Act or the *Police Act*.

(5) When the Board is satisfied after an inquiry that a municipality, police association, police officer or other person has failed to comply with any provision of this Act that is specified in a complaint, the Board may issue a directive to rectify the act in respect of which the complaint is made and, without restricting the generality of the foregoing,

(a) may issue a directive or interim directive to the municipality, police association, police officer or other person concerned to cease doing the act in respect of which the complaint was made,

(b) may issue a directive to require the municipality, police association, police officer or other person

(i) to reinstate any police officer suspended or discharged contrary to this Act;

(ii) to pay to any police officer or former police officer suspended or discharged contrary to this Act compensation not exceeding the sum that, in the opinion of the Board, would have been paid by the municipality to the police officer, together with a sum not exceeding the amount of interest paid by the police officer on money borrowed to support himself

and his family during the time he was so suspended or discharged;

(iii) to reinstate or admit a person as a member of a police association;

(iv) to rescind any disciplinary action or pecuniary or other penalty taken or imposed contrary to this Act;

(v) to pay to a person compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the pecuniary or other penalty imposed on a person contrary to this Act;

(vi) to pay to a police officer in respect of a failure to comply with section 36 compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the remuneration that would have been paid to the police officer by the municipality if the municipality had complied with that section.

(6) When the Board is satisfied after an inquiry that a municipality, police association or authorized representative of either of them is failing or has failed to comply with section 5(3), the Board

(a) shall issue a directive directing the municipality, police association or authorized representative concerned to bargain in good faith and make every reasonable effort to enter into a collective agreement, and

(b) may prescribe the procedure or conditions under which collective bargaining is to take place.

(7) If any directive or interim directive made by the Board pursuant to subsection (5) or (6) is not complied with, the Board may, on the request of a person affected by the directive or interim directive, file a copy of the directive or interim directive with the clerk of the Court of Queen's Bench in the judicial district in which the complaint arose, and thereupon the directive or interim directive is enforceable as a judgment or order of the Court.

(8) A directive or interim directive under subsection (5)(a) to cease a strike or lockout is binding on the police association, police officer, municipality or other person to whom it is directed with respect to the strike or lockout referred to in the directive or interim directive and any future strike or lockout that occurs for the same or a substantially similar reason.

(9) Nothing in this section or in section 45 excludes the jurisdiction of the Court with respect to strikes or lockouts that are not permitted by this Act.

(10) If in the opinion of the Board the complaint is without merit, the Board may reject the complaint at any time.

Right of  
municipality

**40** Nothing in this Act detracts from or interferes with the right of a municipality, police commission or police chief to suspend, transfer, lay off or discharge police officers for proper and sufficient cause.

**PART 6**  
**GENERAL**

Settlement of  
differences

**41(1)** When a difference exists concerning the application or operation of this Act, any party to the difference may refer the difference to the Board.

(2) When a difference is referred to the Board pursuant to subsection (1), the Board or a person designated by the Board may appoint an officer to inquire into the difference and endeavour to effect a settlement.

(3) When the Board or a person designated by the Board does not appoint an officer under subsection (2) or when the appointed officer is unable to effect a settlement within the period that the Board or the person designated by the Board considers to be reasonable in the circumstances, the Board may inquire into the difference.

(4) After conducting an inquiry under subsection (3), the Board may decide the difference and issue any directives it considers appropriate to ensure compliance with and enforcement of this Act.

Service of  
documents

**42(1)** Except when this Act otherwise provides, if anything is required or permitted to be served under this Act, it shall be deemed to be properly served if it is served

(a) in the case of an individual,

(i) personally or by leaving it for him at his last or most usual place of abode with some person who is apparently at least 18 years old, or

(ii) by mailing it to him by registered or certified mail at his last known post office address;

(b) in the case of a municipality,

(i) personally on the municipal secretary or municipal solicitor or by leaving it for him at the municipal office with some person who is apparently at least 18 years old, or

(ii) by sending it by registered or certified mail to the municipal secretary or municipal solicitor at the address of the municipal office;

(c) in the case of a police association,

(i) personally on the president, secretary or an officer of the police association or by leaving it at his address with some person who is apparently at least 18 years old, or

(ii) by sending it by registered or certified mail to the address of the president, secretary or an officer of the police association.

(2) If it is necessary to prove service of anything for the purposes of this Act,

(a) if service is effected personally, the actual date on which it is served is the date of service;

(b) if service is effected by registered mail or certified mail, service of it shall be deemed to have been made 5 days after the date of mailing;

(c) if service is effected by leaving it with a person apparently at least 18 years old, service of it shall be deemed to have been made on the date it was so left.

Capacity of  
police association

**43** For the purposes of this Act a police association is capable of

- (a) prosecuting and being prosecuted, and
- (b) suing and being sued.

Powers of Board

**44**(1) All the provisions of the *Labour Relations Act* relating to the powers and jurisdiction of the Board, its chairman, vice-chairmen, members and officers, hearings procedure, enforcement of orders, appeals and rights, privileges and immunities of the Board, if those matters are not provided for specifically in this Act, apply and have effect as if this Act formed part of the *Labour Relations Act*.

(2) In addition to its powers under the *Labour Relations Act*, the Board may decide for the purposes of this Act whether

- (a) a body is a municipality;
- (b) an organization is a police association;
- (c) a person is a police officer;
- (d) a collective agreement has been entered into;
- (e) a person, bargaining agent or municipality is bound by a collective agreement;
- (f) a municipality or a police association is a party to a collective agreement;
- (g) a collective agreement has been entered into on behalf of any person;
- (h) a collective agreement is in effect;
- (i) the parties to a dispute have settled the terms to be included in a collective agreement;
- (j) a police association represents a majority of persons in a bargaining unit;
- (k) a person is a member in good standing of a police association;
- (l) a person is included in or excluded from a bargaining unit;

and the Board's decision is final and binding.

Jurisdiction  
of Board

**45**(1) The Board has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it, and the action or decision of the Board thereon is final and conclusive for all purposes, but the Board may, at any time, reconsider any decision, order, directive, declaration or ruling made by it and vary, revoke or affirm the decision, order, directive, declaration or ruling.

(2) Subject to subsection (3), no decision, order, directive, declaration, ruling or proceeding of the Board shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings.

(3) A decision, order, directive, declaration, ruling or proceeding of the Board may be questioned or reviewed by way of an application for certiorari or mandamus if the application is filed with the Court and served on the Board no later than 30 days after the date of the Board's decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

Prevalence of Act **46** If a conflict arises between the provisions of this Act and  
(a) any other Act, or  
(b) any by-law or regulation of a municipality,  
the provisions of this Act apply.

Offence and penalty **47** Any person, municipality or police association that contravenes  
(a) this Act, or  
(b) the regulations  
is guilty of an offence and liable to a fine of not more than \$1000 and in default of payment to imprisonment for a term not exceeding 90 days.

Transitional **48(1)** *In this section "former Act" means the Police Officers Labour Relations Act or the Firefighters and Policemen Labour Relations Act.*  
**(2)** *On the coming into force of this Act,*  
*(a) a collective agreement entered into under the former Act with respect to police officers shall be deemed to be a collective agreement under this Act, and*  
*(b) any proceeding or action taken under the former Act shall continue to its conclusion under and in conformity with this Act so far as may be consistent with this Act.*  
**(3)** *If a question arises as to the application of this Act to a proceeding or action taken under the former Act, the Board may decide the question and make any orders or directives it considers necessary to continue the proceeding or action to its conclusion.*

Repeal **49** *The Police Officers Labour Relations Act is repealed.*

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*In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.*